



1996

# Illinois Register

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Rules of Governmental Agencies

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January 17, 1997 - Issue 3: Through	December 31, 1996 (Annual)

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Jan. 2, 1996	Jan. 9, 1996	3	Jan. 19, 1996	July 9, 1996	July 16, 1996	30	July 26, 1996
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Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).



## DEPARTMENT OF AGING

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Elder Rights
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3) Section Numbers:  
     Proposed Action:  
     New Section 270.100  
     New Section 270.105  
     New Section 270.110  
     New Section 270.115  
     New Section 270.120  
     New Section 270.130
- 4) Statutory Authority: 20 ILCS 105/4-01(11), 4-04(c) and 5-02
- 5) A. Complete Description of the Subjects and Issues Involved: These rules describe the requirements for the Long Term Care Ombudsman Program. Subpart B sets forth the definitions of terms used in the rules; Subpart C sets forth the duties of the Illinois Department of Aging and the Office of the State Ombudsman; Subpart D sets forth the duties of the Ombudsman; Subpart E sets forth the duties of the Ombudsman's staff; Subpart F sets forth the duties of the Ombudsman's advisory committee; Subpart G sets forth the duties of the Ombudsman's program poster; means for Ombudsman to access resident records if the resident is not able to give consent; and requirements preventing conflict of interest within the Program.
- 6) Will this proposed rule replace an emergency rule currently in effect?  
     No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking by writing to:

Ms. Pamela W. Balmer,  
 Assistant, Office of General Counsel  
 Illinois Department on Aging  
 421 East Capitol #100  
 Springfield, IL 62701-1789  
 (217) 782-4842

within 45 days after the date of this issue of the Illinois Register.

## DEPARTMENT OF AGING

## NOTICE OF PROPOSED RULES

- These rules will have an impact on small businesses. In accordance with Sections 1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may present their comments to Ms. Pamela W. Balmer at the above address.
- Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act), commenting on these rules shall indicate their status as such, in writing, in their comments.
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: Ombudsman service provider agencies and licensed long term care facilities.
- B) Reporting, bookkeeping or other procedures required for compliance: Ombudsmen maintain records recording ombudsman presence in long term care facilities, the people with whom ombudsmen interact and case notes of complaint investigation and resolution.
- D) Types of professional skills necessary for compliance: Ombudsmen may be paid or volunteer and must have completed the Department's designated pre-service training prior to becoming listed on the Ombudsman Representative Registry and being able to advocate for residents.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF AGING

## NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES  
CHAPTER 11: DEPARTMENT ON AGINGPART 270  
ELDER RIGHTS

## SUBPART A: INTRODUCTION

Section  
270.10 Summary and Purpose

## SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

## Section

270.100 Long Term Care Ombudsman Program

270.105 Definitions

270.110 Responsibilities of the Department and the Office of the State Long

Term Care Ombudsman

270.115 Display of Ombudsman Poster

270.120 Access to Resident Records

270.130 Conflict of Interest

AUTHORITY: Implementing Section 4.04(c) and authorized by Section 4.01(1) of the Illinois Act on the Aging (20 ILCS 105/4.04(c) and 4.01(1)).

SOURCE: Adopted at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

## Section 270.10 Summary and Purpose

This Part describes the organization, standards and responsibilities of the State Long Term Care Ombudsman Program. These include the Long Term Care Ombudsman Program, the Elder Abuse and Neglect Program and the Senior Legal Assistance Program. These programs are designed to expand and advance the rights of seniors.

## SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

## Section 270.100 Long Term Care Ombudsman Program

This Subpart describes the organization, standards and responsibilities of the State Long Term Care Ombudsman Program.

## Section 270.105 Definitions

"Complaint" means a concern brought to, or initiated by, the

## DEPARTMENT OF AGING

## NOTICE OF PROPOSED RULES

ombudsman for investigation and action by, or on behalf of, one or more residents of a long term care facility relating to health, safety, welfare or rights of a resident.

"Office" means the Office of the State Long Term Care Ombudsman as established by the Department, which shall be comprised of the State Long Term Care Ombudsman, any other State Ombudsman staff and the Sub-State Long Term Care Ombudsman Programs.

"Ombudsman" or "representative of the Office" or "duly designated representative of the Office" means any person employed by the Department to fulfill the requirements of the Office, or any representative of a Sub-State Long Term Care Ombudsman Program; provided that the representative, whether he is paid for or volunteers his ombudsman services, shall be qualified and authorized by the Department to perform the duties of an ombudsman and is registered with the Office's Ombudsman Representative Registry. (Section 4.04(b)(3) of the Illinois Act on Aging [20 ILCS 105/4.04(b)(3)])

"Resident" means any person who is a current resident of a long term care facility, an individual seeking admission to a long term care facility, a former resident or a deceased resident if the complaint or request for information involves procedures or practices related to admission, discharge and/or the individual's entitlement to care and services under Federal and State laws and regulations.

"Sub-State Long Term Care Ombudsman Program" or "Sub-State Program" means an agency designated by the Department as a sub-division of the Office.

## Section 270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman

a) The Department shall establish an Office of the State Long Term Care Ombudsman within the Department and provide for sufficient staff to carry out the State and Federal statutory responsibilities of the Ombudsman.

b) The Office shall establish and maintain an Ombudsman Representative Registry as an official listing of those ombudsmen who are designated as representatives of the Office.

c) The Department reserves the right to remove from the Ombudsman Representative Registry the name of any ombudsman representative who fails to meet, maintain, or comply with the standards and requirements of the program. Any ombudsman representative so removed shall not serve, nor represent themselves, as a representative of the ombudsman program. The Department shall provide for notice of such removal to such individual, together with an opportunity to

## DEPARTMENT OF AGING

## NOTICE OF PROPOSED RULES

appeal the decision of the Department.

- d) The Office shall identify, investigate and resolve complaints made by or on behalf of residents of long term care facilities relating to actions, inactions or decisions of providers, or their representatives, of long term care facilities, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents. (Section 4.04(c) of the Illinois Act on Aging)
- e) The Office shall carry out other activities consistent with the requirements of this Subpart.

## Section 270.115 Display of Ombudsman Poster

Each long term care facility shall display a poster supplied by the Office in the following manner:

a) Each poster shall be prominently displayed in the facility in a place accessible to the public.

b) The poster shall not be obscured in any manner by any other material.

## Section 270.120 Access to Resident Records

- a) When a resident is incapable of giving to the ombudsman informed consent for access to the resident's records (such resident is hereinafter referred to as an "incapable resident"), the State Long Term Care Ombudsman, the Sub-State Ombudsman, or other duly designated representative of the State Long Term Care Ombudsman Office may access such incapable resident's clinical and other records under the following circumstances:

1) the State Long Term Care Ombudsman, Sub-State Ombudsman or other duly designated representative has had a face-to-face visit with such resident and has personally determined that the resident was incapable of making and communicating an informed consent or denial for access to the resident's records by the ombudsman; and

2) the State Long Term Care Ombudsman, Sub-State Ombudsman or other duly designated representative has determined the following:

- A) either:
- i) the resident has no court-appointed guardian or agent under a durable power of attorney who is empowered to make such a decision regarding the resident's records; or
  - ii) the guardian or agent is implicated in the complaint; or that such a court-appointed guardian, or an agent under a durable power of attorney could not be located within 3 calendar days despite a reasonable effort by the ombudsman to do so; and
- B) a review of such records is necessary to investigate or resolve a complaint, or protect the rights of the incapable

## DEPARTMENT OF AGING

## NOTICE OF PROPOSED RULES

- resident, and that such a review must occur immediately.
- b) The State Long Term Care Ombudsman, Sub-State Ombudsman or other duly designated representative must certify the requirements of subsection (a) of this Section have been met, in writing, and must present to the administrator of the long term care facility or the custodian of the records a copy of this written certification. Upon receipt of such certification, the facility must allow immediate access to the resident's records by the State Long Term Care Ombudsman, the Sub-State Ombudsman or other duly designated representative of the State Long Term Care Ombudsman Office.
- c) Should the Sub-State Ombudsman or duly designated representative be denied access to a resident's records, the ombudsman will report this fact to the Office of the State Long Term Care Ombudsman.

## Section 270.130 Conflict of Interest

The Department shall ensure that no person directing, employed by, participating in, or with responsibilities for the selection or designation of the Sub-State Programs shall be subject to a conflict of interest, as defined by Section 712(f) of the Older Americans Act (42 U.S.C. 3059g(f)).

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Older Americans Act Programs

2) Code Citation: 89 Ill. Adm. Code 230

3) Section Numbers: Proposed Action:  
230.42 Repeal

4) Statutory Authority: 20 ILCS 105/4.01(1), 4.04(c) and 5.02

5) A Complete Description of the Subjects and Issues Involved: The Department is amending Section 230.42 of the Illinois Administrative Procedure Act, which is currently codified in Part 270 of the Illinois Register. The Department will contain the requirements for the Department's "Long Term Care Ombudsman Program. In order to prevent any conflict or duplication within Department rules, Section 230.42 is being repealed.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written comments concerning this rulemaking, within 45 days after the date of this issue of the *Illinois Register*, to:

Ms. Pamela W. Balmer, Assistant  
Office of General Counsel  
Illinois Department on Aging  
421 East Capitol Avenue #100  
Springfield, Illinois 62701-1789  
217/785-3346

The rule amendment will have an impact on small businesses. In accordance with Sections 1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may present their comments to Ms. Pamela W. Balmer, at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on the rule amendment shall indicate their status as such, in writing, in their comments.

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENT

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Ombudsman service provider agencies and licensed long term care facilities.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of Professional Skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment begins on the next page:

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER II: DEPARTMENT ON AGING

## PART 230

## OLDER AMERICANS ACT PROGRAMS

## SUBPART A: STATE AGENCY

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230.20	State Plan
230.30	State Agency Requirements
230.40	Advisory Council
230.42	Long-Term Care Ombudsman Program (Repealed)
230.43	Service Delivery Systems Responsibilities
230.44	State Advisory Council
230.45	Intrastate Funding Formula
230.46	Hearings
230.47	Designation of Planning and Service Areas

## SUBPART B: AREA AGENCIES ON AGING

Section	Designation and Function
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230.120	Area Plans
230.130	Work of Area Agency on Aging Designation
230.140	Continuity of Services
230.150	Area Agency on Aging Responsibilities

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Section	Direct Provision of Services by the Department and Area Agencies on Aging
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230.220	Licensure and Safety Requirements
230.230	Provider Requirements
230.240	Services

## SUBPART D: FISCAL REQUIREMENTS

Section	Types of Allotments
230.310	Limitations on Use
230.320	Service Funding Requirements

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENT

230.340	Obligation of Allotments
230.350	Waiver of Effort: Non-Federal Share
230.360	General Audit Requirements
230.361	Purpose of Audits
230.362	Audit Engagement Agreement
230.363	Distribution of the Cost of a Unified Audit
230.364	Scope of the Financial and Compliance Audit (Repealed)
230.365	Audit Report
230.366	Resolution of Audit Findings
230.370	Program and Financial Reviews

## SUBPART E: HEARINGS

Section	Hearing Before the Department
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230.520	Eligibility Determination
230.530	Allowable Services
230.540	Maintenance of Effort
230.550	Coordination of Services
230.570	Distribution of Funds
230.580	Area Agency on Aging Administration

## SUBPART G: CASE MANAGEMENT SERVICES

Section	General Requirements for Providers of Case Management Services
230.610	Case Management Service Availability
230.620	Service Activities
230.630	Records and Documentation
230.640	Case Coordination Unit Compliance During Contract/Grant Period
230.650	

**AUTHORITY.** Implementing the Illinois Act on the Aging [20 ILCS 105] and the Older Americans Act as amended (42 U.S.C. 3001, et seq.) and authorized by Section 4.01 of the Illinois Act on the Aging [20 ILCS 105/4.01].

**SOURCE.** Adopted at 5 Ill. Reg. 3722, effective March 31, 1981; amended at 6 Ill. Reg. 7379, effective June 16, 1982; codified at 7 Ill. Reg. 5178; amended at 7 Ill. Reg. 9132, effective July 27, 1983; amended at 8 Ill. Reg. 9330, effective June 15, 1984; amended at 9 Ill. Reg. 5297, effective April 8, 1985;

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENT

amended at 10 Ill. Reg. 5787, effective March 27, 1986; recodified at 10 Ill. Reg. 7653, effective April 30, 1986; amended at 10 Ill. Reg. 14616, effective August 26, 1986; amended at 11 Ill. Reg. 3856, effective February 17, 1987; amended at 11 Ill. Reg. 7586, effective April 8, 1987; amended at 11 Ill. Reg. 15869, effective October 1, 1987; emergency amendments at 12 Ill. Reg. 12540, effective July 15, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 13 Ill. Reg. 2015, effective February 1, 1989; amended at 13 Ill. Reg. 3054, effective March 1, 1989; amended at 13 Ill. Reg. 20299, effective December 15, 1989; amended at 14 Ill. Reg. 2308, effective January 25, 1990; amended at 15 Ill. Reg. 1662, effective December 15, 1991; amended at 16 Ill. Reg. 1516, effective September 20, 1992; amended at 18 Ill. Reg. 14072, effective September 1, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: STATE AGENCY

## Section 230.42 Long-Term Care Ombudsman Program (Repealed)

- The Department shall operate a Statewide long-term care ombudsman program:
- 1) For the purposes of this Section, long-term care facility means any skilled nursing or intermediate care facility or nursing home as defined in Section 4-113 of the Nursing Home Care Reform Act of 1979 (41 Ill. Reg. 1993, ch. 113-1/2, par. 413-113)
  - 2) Other similar adult care home as defined by the Department in the State plan and approved by the Commissioner of the Administration on Aging
  - 3) The Department shall appoint an individual who shall serve as the State long-term care ombudsman and who shall be delegated the responsibility to:
    - 1) Investigate and resolve complaints made by or for older persons in long-term care facilities about administrative actions that may adversely affect their healthy safety welfare or rights
    - 2) Administrative action means any action or decision made by an owner, employee or agent of a long-term facility or of a government agency which affects the provision of services to residents covered by this action
    - 3) Monitor the development and implementation of Federal State and local laws regulations and policies that relate to long-term care facilities in the State
    - 4) Obtain information from public agencies about the problems of older persons in long-term care facilities
    - 5) Train volunteers and assist in the development of citizen organizations to participate in the ombudsman program
    - 6) Maintain a cooperative agreement to assist in nursing home complaints referred by the Illinois Department of Public Health under the Nursing Home Care Reform Act of 1979; and
    - 7) Carry out other activities consistent with the requirements of this section

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED AMENDMENT

- 1) The Department shall establish procedures to ensure that:
  - 1) The ombudsman program is given appropriate access to long-term care facilities and appropriate private access to residents and
  - 2) The ombudsman and the ombudsmen's designees are given appropriate access to residents' personal and medical records
  - 3) The Department shall establish procedures to protect the confidentiality of records and files of long-term care facilities. Such procedures shall nevertheless be subject to the ombudsman program for data and information submitted to the ombudsman program and shall be disclosed without authorization from the ombudsman; and
  - 4) The ombudsman shall not disclose the identity of any complainant or resident unless:
    - A) The complainant or resident or a legal representative of the complainant or resident consents in writing to the disclosure; and specifies to whom the identity is to be disclosed; or
    - B) A court orders the disclosure
- 2) The Department shall establish a Statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The Department shall submit this information to the Illinois Department of Public Health and to the Commissioner of the Administration on Aging in the manner prescribed by the Commissioner.

(Source: Repealed at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)



## ILLINOIS COMMUNITY COLLEGE BOARD

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administration of the Illinois Public Community College Act

2) Code Citation: 23 Ill. Adm. Code 1501

3) Section Numbers: Proposed Action:  
1501.501 Amendment  
1501.519 New

4) Statutory Authority: 110 ILCS 805/2-16.02 (ICCB authorization to administer grants to colleges)

5) A Complete Description of the Subjects and Issues Involved: The fiscal year 1997 ICCB system operating budget includes funding for three special initiatives grants: (1) the education-to-careers special initiatives of the workforce preparation grant; (2) the student support services special initiatives of the workforce preparation grant; and (3) the technology support special initiatives of the advanced technology grant. To enhance the administration of these special initiatives grants, the ICCB needs to have criteria and procedures in its administrative rules.

6) Will these proposed amendments replace emergency rules currently in effect? NO

7) Does this rulemaking contain an automatic repeal date? NO

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes. Sections 501 and 520 at 20 Ill. Reg. 11527, August 30, 1996 and Sections 604 and 608 at 20 Ill. Reg. 14353, November 8, 1996.

10) Statement of Statewide Policy Objectives (if applicable): Not Applicable.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Jill O'Shea  
Director for Governmental Relations  
Illinois Community College Board  
509 South Sixth Street, Suite 400  
Springfield, IL 62701-1874  
(217) 785-0213

All written comments received within 45 days after this issue of the Illinois Register will be considered.

12) Initial Regulatory Flexibility Analysis: The Illinois Community College

## ILLINOIS COMMUNITY COLLEGE BOARD

## NOTICE OF PROPOSED AMENDMENTS

Board has determined that this rulemaking will not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: To enhance the administration of special initiatives grants.

The full text of the Proposed Amendments begins on the next page:



## ILLINOIS COMMUNITY COLLEGE BOARD

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## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## PART 1501

## CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

## ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

## SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section	
1501.101	Definition of Terms
1501.102	Advisory Groups
1501.103	Rule Adoption (Recodified)
1501.104	Manuals
1501.105	Advisory Opinions
1501.106	Executive Director
1501.107	Request for Information (Recodified)
1501.108	Organization, ICCB (Recodified)
1501.109	Appearance at ICCB Meetings
1501.110	Appeal Procedure
1501.111	Reporting Requirements (Repealed)
1501.112	Certification of Organization (Repealed)
1501.113	Administration of Detachments and Subsequent Annexations
1501.114	Recognition

## SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section	
1501.201	Reporting Requirements
1501.202	Certification of Organization
1501.203	Delegation of Responsibilities
1501.204	Maintenance of Documents or Information
1501.205	Recognition Standards (Repealed)

## SUBPART C: PROGRAMS

Section	
1501.301	Definition of Terms
1501.302	Units of Instruction, Research, and Public Service
1501.303	Program Requirements
1501.304	Statewide and Regional Planning
1501.305	College, Branch, Campus, and Extension Centers
1501.306	State or Federal Institutions (Repealed)
1501.307	Cooperative Agreements and Contracts
1501.308	Reporting Requirements
1501.309	Course Classification and Applicability

## SUBPART D: STUDENTS

## SUBPART E: FINANCE

## SUBPART F: CAPITAL PROJECTS

## SUBPART G: STATE COMMUNITY COLLEGE

## ILLINOIS COMMUNITY COLLEGE BOARD

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## PART 1501

## CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

## ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

## SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section	
1501.401	Definition of Terms
1501.402	Admission of Students
1501.403	Student Services
1501.404	Academic Evaluation
1501.405	Student Registration
1501.406	Reporting Requirements

## SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section	
1501.501	Definition of Terms
1501.502	Financial Planning
1501.503	Audits
1501.504	Budgets
1501.505	Nonresident Student Tuition Calculations
1501.506	Published Financial Statements
1501.507	Credit Hour Grants
1501.508	Special Populations Grants
1501.509	Workforce Preparation Grants
1501.510	Research Grants
1501.511	Chart of Accounts
1501.512	Business Assistance Grants (Repealed)
1501.513	Advanced Technology Equipment Grants
1501.514	Capital Renewal Grants
1501.515	Retirees Health Insurance Grants
1501.516	Uncollectible Debts
1501.517	Special Initiatives Grants

## SUBPART C: PROGRAMS

Section	
1501.601	Definition of Terms
1501.602	Approval of Capital Projects
1501.603	State Funded Capital Projects
1501.604	Locally Funded Capital Projects
1501.605	Project Ranges (Repealed)
1501.606	Project Ranges (Repealed)
1501.607	Reporting Requirements
1501.608	Approval of Projects in Section 3-20.3.01 of the Act
1501.609	Completion of Projects Under Section 3-20.3.01 of the Act
1501.610	Demolition of Facilities

## SUBPART D: STUDENTS

## SUBPART E: FINANCE

## SUBPART F: CAPITAL PROJECTS

## SUBPART G: STATE COMMUNITY COLLEGE

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1501.703 Recognition  
1501.704 Programs  
1501.705 Finance  
1501.706 Personnel  
1501.707 Facilities

## SUBPART H: PERSONNEL

Section  
1501.801 Definition of Terms  
1501.802 Sabbatical Leaves

**AUTHORITY:** Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act (110 ILCS 805/Arts. II and III and 6-5.3).

**SOURCE:** Adopted at 6 Ill. Reg. 14262, effective November 3, 1992; codified at 7 Ill. Reg. 14115, effective November 24, 1993; amended at 7 Ill. Reg. 14115, effective November 24, 1993; amended at 8 Ill. Reg. 14262, effective July 25, 1994; amended at 8 Ill. Reg. 14262, effective July 25, 1994; amended at 8 Ill. Reg. 19383, effective September 28, 1994; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1994, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1994, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1995; amended at 9 Ill. Reg. 9470, effective June 11, 1995; amended at 9 Ill. Reg. 16813, effective October 21, 1995; amended at 10 Ill. Reg. 3612, effective January 31, 1996; amended at 10 Ill. Reg. 14659, effective August 22, 1996; amended at 11 Ill. Reg. 7606, effective April 8, 1997; amended at 11 Ill. Reg. 18150, effective October 27, 1997; amended at 12 Ill. Reg. 6660, effective March 25, 1998; amended at 12 Ill. Reg. 13973, effective September 23, 1998; amended at 12 Ill. Reg. 16899, effective September 23, 1998; amended at 12 Ill. Reg. 16901, effective September 23, 1998; amended at 13 Ill. Reg. 14904, effective September 23, 1999; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1999, for a maximum of 150 days; emergency amendment expired on April 9, 1999; amended at 14 Ill. Reg. 4126, effective March 1, 1999; amended at 14 Ill. Reg. 10762, effective June 25, 1999; amended at 14 Ill. Reg. 11771, effective July 9, 1999; amended at 14 Ill. Reg. 13997, effective August 20, 1999; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 18 Ill. Reg. 4635, effective March 9, 1991; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 1816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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## SUBPART E: FINANCE

## Section 1901.501 Definition of Terms

**Advanced Technology Equipment Grant.** The advanced technology equipment grant provided to eligible public community colleges for the procurement of equipment necessary to upgrade curricula impacted by technological changes. (See Section 2-16 of the Act.)

**Annual Financial Statement.** The "annual financial statement," which is required to be published by a district, consists of two parts:

an annual financial report, which includes a statement of revenues and expenditures along with other basic financial data; and

an annual program report, which provides a narrative description of programs offered, goals of the district, and student and staff data.

**Attendance at Mid-Term.** A student is "in attendance at mid-term" in a course if the student is currently enrolled in and actively pursuing completion of the course.

**Auditor.** An auditor is a person who enrolls in a class without intent to obtain academic credit and whose status as an auditor is declared by the student, approved by college officials, and identified on college records prior to the end-of-registration date of the college for that particular term.

**Business Assistance Centers and Workforce Preparation Offices.** Business assistance centers and workforce preparation offices are entities at community colleges that conduct, coordinate, and assist with workforce preparation activities.

**Capital Renewal Grants.** Capital renewal grants are state grants allocated proportionally to each community college district based on the latest fall on-campus nonresidential gross square feet of facilities as certified by the ICB. Such grants are to be utilized for miscellaneous capital improvements such as rehabilitation, remodeling, improvement, and repair; architect/engineer services; supplies, fixed equipment, and materials; and all other expenses required to complete the work.

**Residency - Applicability-Verification of Status.** As part of verification that its credit hours are eligible to receive ICB grants, each community college district shall adopt a process for

## ILLINOIS COMMUNITY COLLEGE BOARD

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verifying the residency status of its students and shall file a description of this process with the ICB by July 1, 1990. The process shall include the methods for verifying residency as defined in the general provisions, special state provisions, and district provisions of this subsection. Each district shall file descriptions of any revisions to its process with the ICB prior to their implementation.

**Residency - General Provisions.** The following provisions apply both to state and district residency definitions:

To be classified as a resident of the State of Illinois or of the community college district, each student shall have occupied a dwelling within the state or district for at least 30 days immediately prior to the date established by the district for classes to begin.

The district shall maintain documentation verifying state or district residency of students.

Students occupying a dwelling in the state or district who fail to meet the 30-day residency requirement may not become residents simply by attending classes at a community college for 30 days or more.

Students who move from outside the state or district and who reside in the state or district for reasons other than attending classes at a community college may not meet the 30-day residency requirement if they do not demonstrate through documentation a verifiable interest in establishing permanent residency.

**Residency - District Provisions.** Students shall not be classified as residents of the district where attending even though they may have met the general 30-day residency provision if they are:

federal job corps workers stationed in the district;

inmates of state or federal correctional/rehabilitation institutions located in the district;

full-time students attending a postsecondary educational institution in the district who have not submitted the required documentation a verifiable interest in establishing permanent residency; and

students attending under the provisions of a chargeback or contractual agreement with another community college.

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**Residency - Special State Provisions.** Students shall be classified as residents of the state without meeting the general 30-day residency provision if they are:

federal job corps workers stationed in Illinois;

members of the armed services stationed in Illinois;

inmates of state correctional/rehabilitation institutions located in Illinois; or

employed full time in Illinois.

**Special Initiatives Grants.** Special Initiatives Grants provide funds for conducting special initiatives activities.

**Special Initiatives Activities.** Special Initiatives Activities are based upon criteria as specified in the special initiatives contract which is executed each year with each district. As special initiatives change, the scope of activities specified in the contract will also change.

**Special Populations Grant.** A "special populations grant" provides funding for:

Special or extra services to assist special populations students to initiate, continue, or resume their education, including tutoring, educational and career counseling, referrals to external agencies, and testing/evaluation to determine courses or services needed by a special populations student.

Courses (not funded through credit hour grants) to provide the academic skills necessary to remedy or correct educational deficiencies to allow the attainment of educational goals, including remedial, adult basic education, adult secondary education, and English as a Second Language courses.

**Special Populations Student.** A "special populations student" is a student with social, physical, developmental, or academic disability that makes it difficult for such a student to adapt to a college environment designed for the nonspecial populations student. This may include students from minority racial/ethnic groups. Colleges shall designate which of their students are special populations as determined by teacher and counselor evaluations and various standardized tests selected by the colleges.

**Workforce Preparation Activities.** Workforce preparation activities create or retain jobs and increase employment opportunities.

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Workforce Preparation Grants. Workforce preparation grants provide funds for conducting workforce preparation activities.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1501.519 Special Initiatives Grants

- a) Special initiatives grants shall be allocated to each Illinois public community college district in accordance with Section 2-16.02 of the Act.
- b) Special initiatives grant funds shall be accounted for in a set of self-balancing accounts within the Restricted Purposes Fund (see Section 1501.511(a)(2)).
- c) Allowable expenditures for special initiatives grants will be specified in a contract which will be executed with each Illinois public community college district eligible to receive the special initiatives grant funds.
- d) By August 1 following the end of the fiscal year, the community college district shall file a report with the ICCB in a format prescribed by the ICCB or in accordance with the terms of the contract, detailing how the funds were utilized.
- e) Special initiatives grants shall be expended or obligated by June 30 of the fiscal year for which the funds were awarded and services for which funds have been obligated shall be received and paid for by September 30 following the end of the fiscal year for which the funds were awarded. Unexpended funds totaling \$100 or more shall be returned to the ICCB by October 15 following the end of the fiscal year. Unexpended funds totaling less than \$100 need not be returned to the ICCB provided the funds are spent in the next fiscal year and for the restricted grant purpose.
- f) Special initiatives grant funds not used in accordance with this Section regardless of the amount shall be returned to the ICCB within six months after receipt of the external audit report by the ICCB or other identification of improper expenditures subsequently verified by the ICCB.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Licensing Requirements for Source Material Milling Facilities

2) Code Citation: 32 Ill. Adm. Code 332

3) Section Number: Proposed Action:  
 332.10 Amendment  
 332.20 Amendment  
 332.40 Amendment  
 332.60 Amendment  
 332.70 Amendment  
 332.100 Amendment  
 332.110 Amendment  
 332.140 Amendment  
 332.150 Amendment  
 332.170 Amendment  
 332.240 Amendment  
 332.250 Amendment  
 332.280 Amendment  
 332.290 Amendment

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 (420 ILCS 40) and the Uranium and Thorium Mill Tailings Control Act (420 ILCS 42).

5) A. Complete Description of the Subjects and Issues Involved: The Department is amending the rule to meet NRC's Part 20 compatibility issues. The Department is proposing to: (a) update citations to federal regulations that are incorporated by reference; (b) update references to other department regulations; (c) add citations to the Illinois Compiled Statutes (ILCS); (d) delete the definitions of "Monitoring", "Restricted area", "Source material" and "Special nuclear material" from the definition Section because these terms have been defined in 32 Ill. Adm. Code 310; (e) clarify the radiation standards to reflect current terminology and dose limits; (f) add a requirement that records maintained by the Department be subject to public access; and (g) make editorial changes to clarify the text so that the style of this rule is consistent with other Department rules.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes, the amendment contains material incorporated by reference pursuant to Section 100/3-75(a) of the Administrative Procedure Act [5 ILCS

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100/5-75(a)].

- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, modify, or delete any regulations, which in a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:
- Robert B. Holtsclaw  
Staff Attorney  
Department of Nuclear Safety  
Springfield, Illinois  
Springfield Office  
(217) 524-1003 (voice)  
(217) 782-6133 (TDD)
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The Department does not believe that this amendment will have an effect on any small businesses, small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not require any additional reporting, bookkeeping or other procedures for compliance.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1996
- The full text of the Proposed Amendment begins on the next page.

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY  
SUBCHAPTER b: RADIATION PROTECTION

## PART 312

## LICENSING REQUIREMENTS FOR SOURCE MATERIAL MILLING FACILITIES

Section	Purpose and Scope
312-10	Definitions
312-20	License Required
312-30	Application Content and Procedure
312-40	General Information
312-50	Technical Information
312-60	Technical Analyses
312-70	Institutional Information
312-80	Financial Information
312-90	Evaluation of License Application and Issuance of a License
312-100	General Conditions of Licenses
312-110	Application for Renewal or Closure
312-120	Contents of Application for Site Closure and Stabilization
312-130	Postclosure Observation and Maintenance
312-140	Technical Criteria for Byproduct Material Milling Facility License
312-150	General Requirements
312-160	Protection of the General Population from Radiation
312-170	Protection of Individuals from Inadvertent Access
312-180	Protection of Individuals During Operations
312-190	Stability of the Byproduct Material Disposal Site After Closure
312-200	Technical Criteria for Byproduct Material Disposal Sites - Siting
312-210	Criteria
312-220	Technical Criteria for Byproduct Material Disposal Sites - Design
312-230	Criteria for Byproduct Material Licensed Sites - Groundwater Protection
312-240	Technical Criteria for Byproduct Material Disposal Sites - Control of Radiation Hazards
312-250	Protection of the General Population from Radiation
312-260	Financial Surety Requirements
312-270	Long-Term Care Payment
312-280	Land Ownership
312-290	Maintenance of Records, Reports, and Transfers

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40] and the Uranium and Thorium Mill Tailings Control Act [420 ILCS 42].

SOURCE: Adopted at 14 Ill. Reg. 1333, effective January 5, 1990; amended at 18 Ill. Reg. 3128, effective February 22, 1994; emergency amendment adopted at 18



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Ill. Reg. 17933, effective December 1, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 6601, effective April 28, 1995; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 332.10 Purpose and Scope

- a) This Part establishes:
  - 1) procedural requirements and technical criteria applicable to the disposal of byproduct material as defined in this Part and provides for the protection of the public health and safety during and after source material milling operations.
  - 2) Specific technical and financial requirements for source material milling facilities, including their construction, operation and decommissioning, decontamination, reclamation and ultimate stabilization, postclosure activities, license transfer and termination, facility ownership and ultimate custody.
  - 3) Procedures, criteria and conditions upon which the Department of Nuclear Safety (Department) issues specific licenses for source material milling and disposal of the byproduct material. The regulations in this Part establish procedures, criteria and regulations upon which the Department of Nuclear Safety (Department) issues specific licenses for source material milling and disposal of the byproduct material. These procedures are intended to ensure the protection of people and the environment during and after source material milling. The regulations in this Part do not establish procedures and criteria for the issuance of licenses for materials covered under the provisions of the Atomic Energy Act of 1954 (AEA) and the Nuclear Regulatory Commission's (NRC) regulations regarding the siting, design, construction, operation, decommissioning, and postclosure activities of the nuclear regulatory act as amended by the 1980 AEA. The regulations in this Part are subject to an agreement between the State and the U.S. Nuclear Regulatory Commission (NRC). In the absence of such agreement, the Regulations in this Part shall not be enforceable against any source material milling facility.

agreement, this part shall not be enforceable against any source of material milling facility. establishes—procedures—requirements—and—technical—criteria—applicable—to—any—source—material—milling—and—to—disposal—of—product—material—as—defined—in—this—part—and—establishes—specific—technical—and—financial—requirements—for—source—material—milling—facilities—including—their—construction—operation—and—decommissioning—decontamination—cleaning—and—transfer—and—stabilization—postclosure—activities—license—transfer—and—termination—of—facility—ownership—and—ultimate—custody—in—this—subsection (c). has the same meaning as when used in 42 U.S.C.A. 20141e-21, also referred to as Section 11e.(2) of the Atomic Energy Act.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.20 Definitions

The following definitions are applicable for use in this Part only.

"Act" means the Radiation Protection Act of 1990 [420 ILCS 40]. 7--1117  
Rev--Stat--1987, ch--111--27 par--211 et seq.

"Active maintenance" means any activity, other than minor custodial activities, needed to preserve isolation of the byproduct material. Active maintenance includes ongoing activities such as the pumping, removal, or treatment of surface water or groundwater or one-time measures such as replacement of a disposal area cover.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs. Any saturated zone created by uranium or thorium recovery operations would not be considered an aquifer unless the zone is or potentially is:

hydraulically interconnected to a natural aquifer,

capable of discharge to surface water, or

reasonably accessible because of migration beyond the vertical projection of the boundary of the land transferred for long-term government ownership and care in accordance with Section 332.280 of this Part.

**AGENCY NOTE:** The determination of "significant" will be based on site specific criteria such as yield of the aquifer in volume per unit time, the degree of use or potential for future use for domestic, industrial or agricultural purposes, the availability of alternative

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NOTICE OF PROPOSED AMENDMENT(S)

source and capability of users to change to alternative sources in the event groundwater protection standards are exceeded.

"Buffer zone" means the area surrounding the site used for disposal of either byproduct material or material contaminated with uranium or thorium during, or as a consequence of, source material milling operations. Use of the buffer zone is limited to those activities that would not be detrimental to containment of the wastes, environmental monitoring, interception and processing of any surface or groundwater effluents.

"Byproduct material" means, for purposes of this Part only, the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material within this definition.

"Closure" means the activities following operations to decontaminate and decommission the buildings and site used to produce byproduct material, to reclaim the tailings area, to reclaim the waste disposal area and to restore the groundwater to the degree necessary to achieve compliance with the groundwater protection requirements of Section subsection 312.230(a) of this Part.

"Closure plan" means the Department approved plan to accomplish closure.

AGENCY NOTE: The Department will approve a closure plan if the plan describes how the licensee will decontaminate, reclaim and stabilize the licensed site in accordance with the requirements of this Part.

"Commencement of construction" means any clearing of land, excavation or other substantial action that would adversely affect the natural environment of a site, but does not include changes desirable for the temporary use of land for public recreational uses, necessary borings to determine site characteristics, or other preconstruction monitoring to establish background information related to the suitability of a site or the protection of environmental values.

"Compliance period" begins when the Department sets specific secondary groundwater protection standards in accordance with Section 312.230 of this Part and ends when the owner's or operator's license is terminated and the disposal site is transferred to the State or federal agency for long-term care.

"Control boundary" means a physical barrier that separates a restricted area from an unrestricted area.

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"Decommissioning" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license. AGENCY NOTE: The byproduct material disposal site is not decommissioned because it will neither be released for unrestricted use nor be unlicensed. Land ownership and custody will be maintained by the State or the federal government as required by Section 312.280 of this Part. Portions however, portions of the licensed site other than the actual byproduct material disposal site area are decommissioned.

"Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Disposal area" means the area containing byproduct material to which the requirements of Sections 312.170, 312.175 and 312.240 of this Part apply. The disposal area includes only the surface area of the land immediately underlain by byproduct material and does not include any embankments, dams or other supporting structures which surround the byproduct material.

AGENCY NOTE: The disposal area includes only the surface area of the land immediately underlain by byproduct material and does not include any embankments, dams or other supporting structures which surround the byproduct material.

"Disposal site" means the land transferred to the State or federal government pursuant to under Section 312.280 of this Part. This land includes the disposal area, any surrounding embankments, or dams that contain the byproduct material.

"Existing portion" means that land surface area of an existing surface impoundment or disposal area on which significant quantities of byproduct material have been placed prior to September 30, 1983.

"Fund" means the "Nuclear Radiation Protection Fund" (see 420 ILCS 40/35) for the year 1987-1988-1989-1990-1991-1992-1993-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-2506-2507-2508-2509-2510-2511-2512-2513-2514-2515-2516-2517-2518-2519-2520-2521-2522-2523-2524-2525-2526-2527-2528-2529-2530-2531-2532-2533-2534-2535-2536-2537-2538-2539-2540-2541-2542-2543-2544-2545-2546-2547-2548-2549-2550-2551-2552-2553-2554-2555-2556-2557-2558-2559-2560-2561-2562-2563-2564-2565-2566-2567-2568-2569-2570-2571-2572-2573-2574-2575-2576-2577-2578-2579-2580-2581-2582-2583-2584-2585-2586-2587-2588-2589-2590-2591-2592-2593-2594-2595-2596-2597-2598-2599-2600-2601-2602-2603-2604-2605-2606-2607-2608-2609-2610-2611-2612-2613-2614-2615-2616-2617-2618-2619-2620-2621-2622-2623-2624-2625-2626-2627-2628-2629-2630-2631-2632-2633-2634-2635-2636-2637-2638-2639-2640-2641-2642-2643-2644-2645-2646-2647-2648-2649-2650-2651-2652-2653-2654-2655-2656-2657-2658-2659-2660-2661-2662-2663-2664-2665-2666-2667-2668-2669-2670-2671-2672-2673-2674-2675-2676-2677-2678-2679-2680-2681-2682-2683-2684-2685-2686-2687-2688-2689-2690-2691-2692-2693-2694-2695-2696-2697-2698-2699-2700-2701-2702-2703-2704-2705-2706-2707-2708-2709-2710-2711-2712-2713-2714-2715-2716-2717-2718-2719-2720-2721-2722-2723-2724-2725-2726-2727-2728-2729-2730-2731-2732-2733-2734-2735-2736-2737-2738-2739-2740-2741-2742-2743-2744-2745-2746-2747-2748-2749-2750-2751-2752-2753-2754-2755-2756-2757-2758-2759-2760-2761-2762-2763-2764-2765-2766-2767-2768-2769-2770-2771-2772-2773-2774-2775-2776-2777-2778-2779-2780-2781-2782-2783-2784-2785-2786-2787-2788-2789-2790-2791-2792-2793-2794-2795-2796-2797-2798-2799-2800-2801-2802-2803-2804-2805-2806-2807-2808-2809-2810-2811-2812-2813-2814-2815-2816-2817-2818-2819-2820-2821-2822-2823-2824-2825-2826-2827-2828-2829-2830-2831-2832-2833-2834-2835-2836-2837-2838-2839-2840-2841-2842-2843-2844-2845-2846-2847-2848-2849-2850-2851-2852-2853-2854-2855-2856-2857-2858-2859-2860-2861-2862-2863-2864-2865-2866-2867-2868-2869-2870-2871-2872-2873-2874-2875-2876-2877-2878-2879-2880-2881-2882-2883-2884-2885-2886-2887-2888-2889-2890-2891-2892-2893-2894-2895-2896-2897-2898-2899-2900-2901-2902-2903-2904-2905-2906-2907-2908-2909-2910-2911-2912-2913-2914-2915-2916-2917-2918-2919-2920-2921-2922-2923-2924-2925-2926-2927-2928-2929-2930-2931-2932-2933-2934-2935-2936-2937-2938-2939-2940-2941-2942-2943-2944-2945-2946-2947-2948-2949-2950-2951-2952-2953-2954-2955-2956-2957-2958-2959-2960-2961-2962-2963-2964-2965-2966-2967-2968-2969-2970-2971-2972-2973-2974-2975-2976-2977-2978-2979-2980-2981-2982-2983-2984-2985-2986-2987-2988-2989-2990-2991-2992-2993-2994-2995-2996-2997-2998-2999-3000-3001-3002-3003-3004-3005-3006-3007-3008-3009-3010-3011-3012-3013-3014-3015-3016-3017-3018-3019-3020-3021-3022-3023-3024-3025-3026-3027-3028-3029-3030-3031-3032-3033-3034-3035-3036-3037-3038-3039-3040-3041-3042-3043-3044-3045-3046-3047-3048-3049-3050-3051-3052-3053-3054-3055-3056-3057-3058-3059-3060-3061-3062-3063-3064-3065-3066-3067-3068-3069-3070-3071-3072-3073-3074-3075-3076-3077-3078-3079-3080-3081-3082-3083-3084-3085-3086-3087-3088-3089-3090-3091-3092-3093-3094-3095-3096-3097-3098-3099-3100-3101-3102-3103-3104-3105-3106-3107-3108-3109-3110-3111-3112-3113-3114-3115-3116-3117-3118-3119-3120-3121-3122-3123-3124-3125-3126-3127-3128-3129-3130-3131-3132-3133-3134-3135-3136-3137-3138-3139-3140-3141-3142-3143-3144-3145-3146-3147-3148-3149-3150-3151-3152-3153-3154-3155-3156-3157-3158-3159-3160-3161-3162-3163-3164-3165-3166-3167-3168-3169-3170-3171-3172-3173-3174-3175-3176-3177-3178-3179-3180-3181-3182-3183-3184-3185-3186-3187-3188-3189-3190-3191-3192-3193-3194-3195-3196-3197-3198-3199-3200-3201-3202-3203-3204-3205-3206-3207-3208-3209-3210-3211-3212-3213-3214-3215-3216-3217-3218-3219-3220-3221-3222-3223-3224-3225-3226-3227-3228-3229-3230-3231-3232-3233-3234-3235-3236-3237-3238-3239-3240-3241-3242-3243-3244-3245-3246-3247-3248-3249-3250-3251-3252-3253-3254-3255-3256-3257-3258-3259-3260-3261-3262-3263-3264-3265-3266-3267-3268-3269-3270-3271-3272-3273-3274-3275-3276-3277-3278-3279-3280-3281-3282-3283-3284-3285-3286-3287-3288-3289-3290-3291-3292-3293-3294-3295-3296-3297-3298-3299-3300-3301-3302-3303-3304-3305-3306-3307-3308-3309-3310-3311-3312-3313-3314-3315-3316-3317-3318-3319-3320-3321-3322-3323-3324-3325-3326-3327-3328-3329-3330-3331-3332-3333-3334-3335-3336-3337-3338-3339-3340-3341-3342-3343-3344-3345-3346-3347-3348-3349-3350-3351-3352-3353-3354-3355-3356-3357-3358-3359-3360-3361-3362-3363-3364-3365-3366-3367-3368-3369-3370-3371-3372-3373-3374-3375-3376-3377-3378-3379-3380-3381-3382-3383-3384-3385-3386-3387-3388-3389-3390-3391-3392-3393-3394-3395-3396-3397-3398-3399-3400-3401-3402-3403-3404-3405-3406-3407-3408-3409-3410-3411-3412-3413-3414-3415-3416-3417-3418-3419-3420-3421-3422-3423-3424-3425-3426-3427-3428-3429-3430-3431-3432-3433-3434-3435-3436-3437-3438-3439-3440-3441-3442-3443-3444-3445-3446-3447-3448-3449-3450-3451-3452-3453-3454-3455-3456-3457-3458-3459-3460-3461-3462-3463-3464-3465-3466-3467-3468-3469-3470-3471-3472-3473-3474-3475-3476-3477-3478-3479-3480-3481-3482-3483-3484-3485-3486-3487-3488-3489-3490-3491-3492-3493-3494-3495-3496-3497-3498-3499-3500-3501-3502-3503-3504-3505-3506-3507-3508-3509-3510-3511-3512-3513-3514-3515-3516-3517-3518-3519-3520-3521-3522-3523-3524-3525-3526-3527-3528-3529-3530-3531-3532-3533-3534-3535-3536-3537-3538-3539-3540-3541-3542-3543-3544-3545-3546-3547-3548-3549-3550-3551-3552-3553-3554-3555-3556-3557-3558-3559-3560-3561-3562-3563-3564-3565-3566-3567-3568-3569-3570-3571-3572-3573-3574-3575-3576-3577-3578-3579-3580-3581-3582-3583-3584-3585-3586-3587-3588-3589-3590-3591-3592-3593-3594-3595-3596-3597-3598-3599-3600-3601-3602-3603-3604-3605-3606-3607-3608-3609-3610-3611-3612-3613-3614-3615-3616-3617-3618-3619-3620-3621-3622-3623-3624-3625-3626-3627-3628-3629-3630-3631-3632-3633-3634-3635-3636-3637-3638-3639-3640-3641-3642-3643-3644-3645-3646-3647-3648-3649-3650-3651-3652-3653-3654-3655-3656-3657-3658-3659-3660-3661-3662-3663-3664-3665-3666-3667-3668-3669-3670-3671-3672-3673-3674-3675-3676-3677-3678-3679-3680-3681-3682-3683-3684-3685-3686-3687-3688-3689-3690-3691-3692-3693-3694-3695-3696-3697-3698-3699-3700-3701-3702-3703-3704-3705-3706-3707-3708-3709-3710-3711-3712-3713-3714-3715-3716-3717-3718-3719-3720-3721-3722-3723-3724-3725-3726-3727-3728-3729-3730-3731-3732-3733-3734-3735-3736-3737-3738-3739-3740-3741-3742-3743-3744-3745-3746-3747-3748-3749-3750-3751-3752-3753-3754-3755-3756-3757-3758-3759-3760-3761-3762-3763-3764-3765-3766-3767-3768-3769-3770-3771-3772-3773-3774-3775-3776-3777-3778-3779-3780-3781-3782-3783-3784-3785-3786-3787-3788-3789-3790-3791-3792-3793-3794-3795-3796-3797-3798-3799-3800-3801-3802-3803-3804-3805-3806-3807-3808-3809-3810-3811-3812-3813-3814-3815-3816-3817-3818-3819-3820-3821-3822-3823-3824-3825-3826-3827-3828-3829-3830-3831-3832-3833-3834-3835-3836-3837-3838-3839-3840-3841-3842-3843-3844-3845-3846-3847-3848-3849-3850-3851-3852-3853-3854-3855-3856-3857-3858-3859-3860-3861-3862-3863-3864-3865-3866-3867-3868-3869-3870-3871-3872-3873-3874-3875-3876-3877-3878-3879-3880-3881-3882-3883-3884-3885-3886-3887-3888-3889-3890-3891-3892-3893-3894-3895-3896-3897-3898-3899-3900-3901-3902-3903-3904-3905-3906-3907-3908-3909-3910-3911-3912-3913-3914-3915-3916-3917-3918-3919-3920-3921-3922-3923-3924-3925-3926-3927-3928-3929-3930-3931-3932-3933-3934-3935-3936-3937-3938-3939-3940-3941-3942-3943-3944-3945-3946-3947-3948-3949-3950-3951-3952-3953-3954-3955-3956-3957-3958-3959-3960-3961-3962-3963-3964-3965-3966-3967-3968-3969-3970-3971-3972-3973-3974-3975-3976-3977-3978-3979-3980-3981-3982-3983-3984-3985-3986-3987-3988-3989-3990-3991-3992-3993-3994-3995-3996-3997-3998-3999-4000-4001-4002-4003-4004-4005-4006-4007-4008-4009-4010-4011-4012-4013-4014-4015-4016-4017-4018-4019-4020-4021-4022-4023-4024-4025-4026-4027-4028-4029-4030-4031-4032-4033-4034-4035-4036-4037-4038-4039-4040-4041-4042-4043-4044-4045-4046-4047-4048-4049-4050-4051-4052-4053-4054-4055-4056-4057-4058-4059-4060-4061-4062-4063-4064-4065-4066-4067-4068-4069-4070-4071-4072-4073-4074-4075-4076-4077-4078-4079-4080-4081-4082-4083-4084-4085-4086-4087-4088-4089-4090-4091-4092-4093-4094-4095-4096-4097-4098-4099-4100-4101-4102-4103-4104-4105-4106-4107-4108-4109-4110-4111-4112-4113-4114-4115-4116-4117-4118-4119-4120-4121-4122-4123-4124-4125-4126-4127-4128-4129-4130-4131-4132-4133-4134-4135-4136



## DEPARTMENT OF NUCLEAR SAFETY

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material under a Department license.

AGENCY NOTE: The licensed site would include, at a minimum, any actual or proposed disposal areas and sites, any additional land used by the licensee for the generation or storage of byproduct material, and any buffer zones. Normally, such additional this-sister land areas and any buffer zones will be decommissioned and the licensed site subject to land transfer pursuant to under Section 332.280 of this Part.

"Liner" means a continuous layer of natural or man-made material beneath, or on the sides of, a surface impoundment which restricts the downward or lateral escape of byproduct material, hazardous constituents, or leachate.

"Long-term care" means the period following postclosure and termination of a license issued pursuant to under this Part during which surveillance and monitoring activities are conducted by a State or Federal Agency Agency.

"Minor custodial activities" means maintenance activities under State specific license, not necessary to preserve the isolation of the byproduct material. Such activities could include repair of fencing, repair or replacement of monitoring equipment, minor additions to or repair of disposal area cover and general disposal site upkeep such as mowing grass.

"Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of a licensed disposal site.

"Point of compliance" means the site specific location in the uppermost aquifer where the groundwater protection standard must be met.

"Postclosure" means the period of time from completion of the closure plan for decontamination, reclamation and stabilization of the source material milling facility, byproduct material surface impoundment and disposal area, but prior to the termination of the license.

"Reclamation" means the following activities performed at a licensed site as a part of closure:

stabilize and isolate byproduct material contained within a disposal site. This may include relocation of the byproduct material;

backfill with uncontaminated soil any disturbed areas to achieve a topography compatible with surrounding terrain;

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recontour land to support surface drainage; and  
vegetate as necessary.

"Restricted area" means any area access to which is controlled by the licensee for purposes of protection of individuals from exposure to radiation. Restricted areas may be established in the restricted area shall not include any residential building, any other building, any other separate room or room in a residential building may be set apart as a restricted area.

"Source material" means:  
uranium or thorium or any combination thereof in any physical or chemical form; or  
ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium or any combination of uranium or thorium; or  
Source material does not include special nuclear material.

"Source material milling" means any operation in which uranium or thorium is extracted and concentrated from its source material and its source material content. This includes solution mining and heap leaching and any other operation which generates byproduct material as defined in this Part.

"Special nuclear material" means:  
plutonium, uranium-233, uranium enriched in the isotope-233 or in the isotope-235, and any other material which the U.S. Nuclear Regulatory Commission determines to be special nuclear material; or  
any material artificially enriched by any of the foregoing.

"Surface impoundment" means a natural topographic depression, man-made excavation, or other ditch which is designed to hold accumulation of liquid wastes containing free liquids, and which is not an injection well.

"Surveillance" means monitoring and observation of the disposal site for the purposes of visual detection of the need for maintenance, custodial care, evidence of unauthorized access and compliance with other license and regulatory requirements.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective

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## Section 312.40 Application Content and Procedure

- a) In addition to the requirements set forth in 32 Ill. Adm. Code 330.250, an application filed pursuant to this Part shall contain the required information as set forth in Sections 332.50 through 332.90 of this Part.
- b) The Department will review the application for completeness within sixty--60 days after receipt of the application and will notify the applicant whether or not the application is acceptable for filing. This review of the application shall not constitute the Department's approval of the adequacy of the information and data contained in the application.
- c) The Department may at any time after the filing of the original application and before the expiration of the license, require further statements or data to enable the Department to determine whether the application should be denied or whether a license should be granted, modified, or revoked.
- d) A license application may include a request for a licensee to engage in one or more activities, provided that the application specifies the additional activities for which licenses are requested and complies with regulations of the Department as to application for such licenses.
- e) In any application, the applicant may incorporate by reference information contained in previous applications, statements or reports filed by the applicant with the Department. Such reference shall identify the document being referenced by subject, date and page number.
- f) All materials considered by the applicant to be proprietary or confidential in nature shall be separated and marked proprietary or confidential by the applicant before submission to the Department, and sealed in an envelope or package--these materials shall be referenced in the license application; Public inspection of applications and other documents submitted to the Department pursuant to this Section shall be in accordance with 2 Ill. Adm. Code 1076 and the requirements of the Freedom of Information Act (5 ICs 1401).
- g) Thirty ten copies of an application for a specific license, or amendment thereto, shall be filed with the Department.
- h) Each application for a specific license, or amendment thereto, shall be accompanied by the fee prescribed in 32 Ill. Adm. Code 331.40 Appendix A.
- i) Each application shall be signed by the applicant or a person duly authorized to act on behalf of the applicant.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF PROPOSED AMENDMENT(S)

## Section 312.60 Technical Information

- The application shall contain technical information demonstrating that the technical criteria of this Part will be met. Specifically, the application shall contain:
- a) A description of the characteristics of the proposed licensed site as determined by selection and characterization activities. The description shall include, but need not be limited to, the following:
    - 1) Topography, geology, geochemistry, geotechnology, seismology, hydrology, climatology, meteorology, radioactivity, toxicology and/or ecology;
    - 2) History, archaeology and demography;
    - 3) Local natural and cultural resources;
    - 4) Local natural and man-made resources;
    - 5) Proposed and available modes of transportation; and
    - 6) A list of all endangered plant and animal species on the site and within 10 km.
  - b) A description of the design features of the source material milling facility and byproduct material surface impoundment and disposal area. The description shall include the following:
    - 1) Surface and groundwater management;
    - 2) Effluent discharges and monitoring;
    - 3) Licensed site access protection;
    - 4) Occupational exposure control;
    - 5) Licensed site monitoring, closure and maintenance; and
    - 6) Buffer zone adequacy for monitoring and potential mitigative measures.
  - c) A description of the design criteria and their relationship to the technical criteria.
  - d) A description of the natural events or phenomena, such as winds and rainstorms, tornadoes, earthquakes and extreme temperatures, used for the design and their relationship to the design criteria.
  - e) A description of codes and standards which the applicant has applied to the design and which will apply to construction of the source material milling facility, and any byproduct material surface impoundment and disposal area.
  - f) A description of the construction and operation of any byproduct material surface impoundment and disposal area. The description shall include as a minimum:
    - 1) Method of construction;
    - 2) Method for emplacement of byproduct material within a surface impoundment or disposal area;
    - 3) Procedures for areas of waste segregation;
    - 4) Types of access control barriers;
    - 5) Engineering quality control program;
    - 6) Construction quality assurance program;
    - 7) Methods and areas of waste storage;
    - 8) Onsite traffic and drainage systems; and

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- 9) Methods of control surface water and groundwater and precipitation access to the byproduct material.
- g) A description of methods to be employed in the handling and disposal of the byproduct material including dewatering and neutralizing such materials that because of physical or chemical properties, might require special handling or disposal.
- h) A description of the licensed site closure plan, including those design features which are intended to facilitate closure and to eliminate the need for active maintenance.
- i) A description of the kind, amount, source, classification and specifications of the radioactive material proposed to be received, possessed, processed and disposed of at the source material milling facility, any byproduct material surface impoundment and any disposal area.
- j) A description of the quality assurance program for the determination of natural characteristics of the licensed site and for the maintenance of quality control during the design, construction, operation, reclamation, decontamination, stabilization and closure of the facility, including the criteria and standards shall be incorporated in this program.
- k) A description of the radiation safety program for controlling and monitoring radioactive effluents to ensure compliance with the technical criteria in Section 332.170 of this Part and 32 Ill. Adm. Code 340; occupational radiation exposure to ensure compliance with the requirements of 32 Ill. Adm. Code 340; and to control contamination of personnel, vehicles, equipment, buildings and the site. Both routine operations and accidents shall be addressed. The program description shall include procedures, instrumentation, facilities and equipment.
- l) A description of the environmental monitoring program designed to provide data to evaluate potential health and environmental impacts and the plan for taking corrective action if violations are indicated. Copies of control procedures shall include:
- 1) the sampling of air, for particulate and gaseous emissions;
  - 2) the sampling of surface water and groundwater;
  - 3) the sampling of soil and sediment;
  - 4) the sampling of vegetation and animals;
  - 5) the sampling of total radon and its daughters;
  - 6) the sampling of direct radiation with both passive integrating devices and survey instruments; and
  - 7) other environmental analysis that might be indicated as a result of site specific conditions.
- m) A description of the proposed methods of decontamination, reclamation, stabilization and postclosure activities within the licensed site.
- n) A description of each emission, source and emission control device and maintenance schedules for emission control devices. The description shall also include the efficiency, calibration procedures and maintenance schedules for emission control devices.

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- o) A description of the licensee's procedure for monitoring all pathways of exposure (i.e., ingestion, inhalation, external, external exposures) to the public. The frequency of monitoring for each pathway shall be site specific and designed to demonstrate compliance with the criteria of Section 332.170 of this Part and 32 Ill. Adm. Code 340.
- p) A description of the corrective procedures that the applicant will employ to control the activities of the licensee, including the use of any byproduct material surface impoundment, and disposal area, including, but not limited to, organization and lines of authority, management audit programs, and internal inspection programs.
- q) An estimate of the environmental effects of accidents on each operation.
- r) A description of regional and site specific characteristics which have seasonal or cyclical variations, including to include the range of variations and in-addition-to-the average values. The site specific proportional monitoring data must be based on data collected during one year (four consecutive seasons) period or longer. This data shall be collected prior to any alteration of the environment by changes in topography, drainage or construction of the milling facility and waste disposal.
- s) A report describing methodology, calibration procedures, quality control and data analysis for each type of measurement shall be included in the application.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.70 Technical Analyses

The technical information shall also include the following analyses needed to demonstrate that the technical criteria of this Part will be met:

- a) Analysis of radiological impacts, including all pathways of exposure to the public, including external exposures, the public and those continuously present at the control boundary, the public and those individuals working at the licensed site, in accordance with Section 332.170 of this Part and 32 Ill. Adm. Code 340.210 340+1000. The analysis of radiological impacts of the proposed project must include the construction, operation, decontamination, reclamation, stabilization and postclosure periods under both normal and low-frequency severe event conditions (e.g., floods, severe storms, earthquakes, tornadoes, extreme temperatures). In addition, the analysis shall include a description of assumptions and procedures used for determination of the source terms, concentrations and dose-conversion factors. The impact analysis shall also include the following:
- 1) A determination of the radiological impacts to an individual continuously present at the control boundary;
  - 2) A determination of the health impacts to the public, based on

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- existing population and projected population, for 100 years, within a distance of 80 km;
- 3) A determination of the health impacts to the public, based on existing population and projected population, for 100 years, within a distance to 5 km;
- 4) Radiological analyses for a period up to 100 years after the anticipated closure;
- 5) The radiological impacts on groundwater, estimated for a period of 1,000 years after the beginning of the operation; and
- 6) Identification and differentiation of the roles performed by the natural site characteristics and design features in isolating the radioactive waste from the public. The analyses shall include assessments that show the exposures to humans from the release of radioactivity will not exceed the limits set forth in Section 332.170 of this Part and 32 Ill. Adm. Code 340.
- b) Analyses of the protection of individuals during operations shall include assessments for expected exposures due to routine operations and accidents during operation, storage, transfer, transport and disposal of ores, products, byproducts, and byproduct material as defined in this Part. The analyses shall include assessments that show that exposures will be controlled to meet the requirements of 32 Ill. Adm. Code 340.21034e149 for individuals in the restricted area, and the requirements of Section 332.170 of this Part and 32 Ill. Adm. Code 340.310 and 340.320 for individuals outside the control boundary.
- c) Evaluation of the long-term stability of the byproduct material disposal site shall include assessments of the byproduct material source, material milling facility and any byproduct material surface impoundment or disposal area shall be based upon analyses of active natural processes, such as erosion, mass wasting, slope failure, settlement of byproduct material and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses shall include assessments that show that, after closure, the disposal site will not require active maintenance.
- d) Analysis of the protection of the disposal site from inadvertent access shall include demonstration that the site closure requirements of Section 332.180 of this Part will be met.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.100 Evaluation of License Application and Issuance of a License

- a) Environmental Analysis
- 1) Each application for a license or license amendment must be reviewed and the license or amendment must be issued by the Department before commencement of any major construction activity. As part of its review of such applications, the

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- Department shall prepare a written analysis of the impact of the license including any activities conducted pursuant thereto. The analysis shall include the following:
- A) An assessment of the radiological and nonradiological impacts to the public health from the activities to be conducted pursuant to the license or amendment;
- B) An assessment of any impact on any waterway and groundwater resulting from the activities conducted pursuant to the license or amendment;
- C) Consideration of alternatives, including alternative sites and engineering thereof, for activities to be conducted pursuant to the license or amendment; and
- D) Consideration of the long-term impacts including decontamination, decontamination and reclamation impacts, associated with activities to be conducted pursuant to the license or amendment.
- 2) Commencement of construction prior to issuance of the license or amendment shall be grounds for denial of the license or amendment, and
- 3) The environmental analysis prepared in accordance with subsection (a)(1) of this Section shall be available to the public before the commencement of hearings regarding the merits of the application.
- b) Public participation
- 1) Written comments
- A) Upon completing preparation of the analysis pursuant to subsection (a) of this Section, the Department shall publish a notice of the availability of the environmental analysis in the official State newspaper and in a newspaper published in the county or counties where the facility which is the subject of licensing action is to be located. This notice shall specify how a copy of the environmental analysis can be obtained as well as the deadline and address for submitting written comments on the license application.
- B) The Department shall accept written comments on the license application and the environmental analysis for at least 45 days following the publication of the notice described in subsection (b)(1)(A) of this Section.
- 2) Hearings
- A) At least 30 days prior to the issuance or renewal of a license pursuant to this Part, the Department shall publish a Notice of Opportunity to request a hearing in the official State newspaper and in a newspaper published in the county or counties where the facility that is the subject of the license application is located. This notice shall contain:
- i) a statement identifying the location of the facility,
- ii) a statement of the availability of the environmental analysis,





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f) The licensee will terminate only on the full implementation of the final closure plan as approved by the Department, including postclosure observation and maintenance, and meeting the requirements of Section 332.140 of this Part.

g) Notwithstanding to whom the petition is filed, the licensee shall, following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of 11 U.S.C. 101 et seq. (bankruptcy) of the United States Code by or against:

- A) The licensee;
- B) An entity (as that term is defined in 11 U.S.C. 101(13)(H)(4)) controlling the licensee or listing the licensee or licensee as property of the estate; or
- C) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

2) This notification shall state indicate:

- A) The bankruptcy court in which the petition for bankruptcy was filed; and
  - B) The date of the filing of the petition.
- h) The licensee shall submit written statements, as requested by the Department at any time before termination of the license, to enable the Department to determine whether the license should be modified, suspended or revoked.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.140 Postclosure Observation and Maintenance

a) The licensee shall observe, monitor and maintain the licensed site until closure is complete and the license is terminated under the authorization of the Department in accordance with Section 332.150 of this Part. The licensee shall be responsible for disposal site maintenance and postclosure observation and maintenance. A period of postclosure observation and maintenance will be required if the Department determines that the licensee has not designed and closed the disposal site in accordance with the closure plan specified in the license.

b) During the postclosure period, the licensee shall conduct four disposal site inspections each year, once each season. Additional inspections shall be performed after each earthquake, which at the disposal site exceeds a level 6 on the Modified Mercalli Index, or flood or abnormal change in climate, such as precipitation in excess of 10 times the seasonal average level. The results of the inspections, the monitoring data and the evaluation of the monitoring data shall be reported to the Department within 60 days after each inspection. The Department shall require more frequent disposal site inspections, if necessary to establish compliance with the

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requirements of Section 332.100 of this Part, or if there has been unauthorized use of the disposal site.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.150 Termination of Source Material Milling Facility License

a) Following closure and the period of postclosure observation and maintenance, the licensee may apply for termination of the license. The license shall be terminated when the Department finds:

- 1) That the closure of the licensed site has been made in conformance with the licensee's closure plan, as amended and approved as part of the license;
- 2) That the licensee has established that the technical criteria of this Part have been met; funds and records are transferred to the Federal Government;
- 3) That any long-term care, observation and maintenance of the disposal site;
- 4) That the Federal or State agency that will assume responsibility for long-term care, observation and maintenance of the disposal site is prepared to assume such responsibilities;
- 5) That permanent monuments or markers warning against intrusion have been installed;
- 6) That the U.S. Nuclear Regulatory Commission has made a determination of compliance with the decontamination, decommissioning, reclamation and stabilization standards; and
- 7) That title to the byproduct material and to the disposal site has been transferred to the United States of America.

b) In addition to satisfying requirements of subsection (a) of this Section above, the licensee shall be responsible for disposal site maintenance and postclosure observation and maintenance to the following limits prior to termination of the license:

- 1) Concentration of radionuclides in soil above background concentrations for total radium, averaged over areas of 100 square meters, shall not exceed:
  - A) 5 picocuries per gram of dry soil, averaged over the first 15 centimeters below the surface; and
  - B) 15 picocuries per gram of dry soil, averaged over layers of the 15 centimeters thickness more than 15 centimeters below the surface.
- 2) The level of gamma radiation measured at a distance of 100 centimeters from the surface shall not exceed background.
- 3) Soil contamination levels with nonradioactive and radioactive hazardous substances shall not exceed levels specified in the applicable State or Federal regulations.

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(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.170 Protection of the General Population from Radiation

a) At all times, concentrations of radioactive material, excluding radon, thoron and their progeny, which may be released to the general environment shall not result in an annual effective dose equivalent in excess of 25 millirem (0.25 mSv) to the whole body of any member of the public; and

2) Shall not result in an annual dose equivalent in excess of 75 millirem (0.75mSv) to the thyroid or 25 millirem (0.25 mSv) to any other organ of any member of the public.

b) Releases of radionuclides in effluents to the general environment shall be maintained as low as is reasonably achievable.

c) During the operating life and facility decommissioning, the dose to any member of the public shall not exceed the limits specified in 32 Ill. Adm. Code 340.310 combined-concentration-of-radon-and-thoron-at-the-boundary-of-the-licensed-site-measured-at-a-height-of-one-meter from-the-surface-averaged-annuity shall not exceed three picocuries per-liter-above-the-background-concentration-at-the-licensed-site.

d) As a condition of the license, the licensee shall institute and maintain stabilization, the annual total radon release rate through the cover from the byproduct material shall not exceed two picocuries per square meter per second. Furthermore, the direct gamma exposure rate from the byproduct material shall be reduced to background levels normal for areas in the vicinity.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.240 Technical Criteria for Byproduct Material Disposal Sites - Control of Radiation Hazards

a) Licensees shall place an earthen cover over byproduct material at the end of source material milling operations and shall close the disposal site in accordance with a design plan that shall comply with the requirements specified in Section 332.170(d) of this Part (earthen cover for a period of 1,000 years. Lands not decommissioned in accordance with Section 332.150(b)(1) of this Part shall be incorporated into the disposal area. Monitoring for total radon after installation of an appropriately designed cover is not required. Total radon emissions from cover material shall be estimated as part of developing a closure plan. The standard for total radon release rate specified in Section 332.170(d) of this Part 332.196(c); however, applies only to emissions from byproduct material. In computing required byproduct material area cover thicknesses, average moisture in the cover shall be

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determined from similar soils and under similar circumstances. The effects of any synthetic layer shall not be taken into account in determining the calculated total radon release rate. Material in the earthen cover shall be placed in a manner such that it shall be other than soil. The material shall be placed in a manner such that differential settlement, weathering or other mechanism, over long-term time intervals. Near surface cover material within the top three meters shall not include byproduct material or rock that contains elevated levels of radium; soils used for near surface cover shall be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils.

b) The licensee shall ensure that disposal sites are closed in a manner that assures no active maintenance will be required. The licensee shall address the nonradiological hazards associated with the wastes in planning and implementing closure. To the extent necessary to prevent threats to human health and the environment, the licensee shall control or eliminate postclosure escape of nonradiological hazardous constituents, leachate, contaminated water, and decomposition products to groundwater, surface water or to the atmosphere.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.250 Technical Criteria - Source Material Milling Operations

a) Liquids resulting from any of the mill processes shall not be released into surface streams. In addition, contaminated solutions, other than liquids resulting from any of the mill processes, shall not be released into the environment if the solutions have radionuclide concentrations in excess of those specified in 32 Ill. Adm. Code 340.230(b) and (c) 32-III-Adm-Code-340-Appendix-A--(see-Table-171)

b) Byproduct material shall be chemically and physically treated to stabilize or remove the contaminants.

c) An independent quality assurance program shall be established to assure that specifications of the monitoring program detailed in the license are met. If adverse groundwater impacts or conditions conducive to adverse groundwater impacts occur, action shall be taken to alleviate the impacts or conditions and restore groundwater quality to levels as specified in accordance with Section 332.230 of this Part consistent-with-these-before-operations-began.

d) Source material milling operations shall be conducted so that all airborne effluent releases are reduced to levels as low as is reasonably achievable. Emissions controls shall be used. Institutional controls, such as extending the licensed site boundary and exclusion area, may be employed to ensure that offsite dose exposure limits are met, but only after all practicable process and



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engineering measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. During operations and prior to closure, radiation doses from radon emissions from surface impoundments and disposal areas containing byproduct material shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters which determine the efficiency of product stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency. Corrective action must be taken when performance is outside of prescribed ranges. Efficient control devices must be operative at all times during drying and packaging operations. The equipment shall be maintained in good product stack. Drying and packaging operations shall be conducted under controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable. Operations shall not be restarted after cessation due to abnormal performance until needed corrective actions have been identified and implemented. All such cessations, corrective action and restarts shall be reported to the Department, in writing, within ten--t 104 days of the subsequent restart.

e) To control fugitive dust from tailings, all surfaces not covered by standing liquids shall be wetted or chemically stabilized. For these purposes, initially granted after January 1, 1990 the effective date of this amendment, the licensee shall develop and implement a plan for dust stabilization and reclamation. To control dusting from diffuse sources, operators shall develop written operating procedures specifying the methods of control which will be used.

f) Byproduct material shall be managed so as to conform to the applicable provisions of 40 CFR 440, Ore Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory, in effect on July 1, 1995, January 1, 1999, exclusive of subsequent amendments or editions.

g) Licensees and applicants shall satisfy the requirements of 40 CFR 61, in effect on July 1, 1995, 1999, exclusive of subsequent amendments or editions.

h) Inspection of the byproduct material impoundments and disposal areas: 1) Inspection of the impoundment and disposal site shall be conducted annually or more frequently if warranted by the results of the inspections. Records of the inspections shall be maintained for 5 years in a format allowing for easy access and for review by the Department for 5-years.

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2) The licensee shall notify the Department within 2 hours by telephone, and then within 48 hours by written report, of any failure of a byproduct material impoundment or disposal area which results in a release of byproduct material into unrestricted areas. The licensee shall notify the Department in writing, within 5 working days, of any condition which was not anticipated in the design of the byproduct material surface impoundment or disposal area and if not corrected, could cause failure of embankments or other structures containing the byproduct material and the release of byproduct material into unrestricted areas.

3) In cases of failure of the byproduct material impoundment, the report shall be maintained for transfer to the governmental agency to which the title of the facility will be transferred.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 312.280 Land Ownership

a) These requirements relating to ownership of byproduct material, mineral rights and disposal sites apply to all licenses terminated, issued, or renewed after January 1, 1990 the effective date of this Part.

b) Unless exempted by NRC, title to land (including any affected interests therein) which is used for the disposal of byproduct material, or is essential to ensure the long-term stability of the disposal area and the title to byproduct material shall be transferred to the United States of America or the State of Illinois at the option of the licensee or to the termination of the license. The applicant or licensee shall attempt to obtain ownership of severable subsurface interests and rights, and shall, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to an NRC license prohibiting disruption and disturbance of the radioactive material.

c) The use of the surface or subsurface estates, or both, of the lands transferred to the State or to the United States of America is prohibited unless the NRC determines by order that such use will not endanger the public health, safety, welfare or environment. The person who transferred such lands to the State or to the United States of America shall have the right of first refusal with respect to such

d) Use of such land and land transferred to the United States of America or the State in accordance with this section shall be transferred without cost to the United States of America or the State other than administrative and legal costs incurred in carrying out such transfer.

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- e) The provisions of this Section respecting transfer of title and custody to land and byproduct material do not apply in the case of lands held in trust by the United States of America for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States of America. Where such lands are used for the disposal of byproduct material, the licensee shall be subject to the provisions of the NRC which are appropriate to assure the long-term care and maintenance of such lands by the United States of America.
- f) Prior to termination of the license, the licensee shall provide evidence that it will comply with ownership requirements of this Section.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 332.290 Maintenance of Records, Reports, and Transfers

- a) Each licensee shall maintain any records and make any reports in accordance with the provisions of this Section and the requirements of the condition of the license or by the rules, regulations, and orders of the Department.
- b) Records which are required to be maintained by regulation or by license conditions shall be maintained in a format allowing for easy access and review by the Department for a time period specified in the applicable regulation or license condition. If a record retention period is not otherwise specified, these records shall be maintained and transferred to the officials specified in subsection (d) of this Section below as a condition of license termination unless the Department otherwise authorizes their disposition.
- c) Records which shall be maintained pursuant to this Part may be the original, or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at a magnification of 10 times the original.
- d) Copies of records of the location and quantity of byproduct material contained in the disposal site shall be transferred upon license termination to the Department, the agency responsible for long-term care, the U.S. Nuclear Regulatory Commission, the chief executive of the nearest municipality, the chief executive of the county in which the disposal site is located, the county zoning board or land development and planning agency, and the Governor.
- e) Each licensee shall file a copy of its financial report or a certified financial statement annually with the Department in order to update the information base for determining the continued financial qualifications of the licensee.
- f) Each licensee shall submit status reports to the Department. The reports shall be submitted within 90 days after January 1 and July 1 of each year and shall cover the previous 6 months of operation. The

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reports shall include:

- 1) Specification of the quantity of each of the radionuclides released to unrestricted areas in liquid and gaseous effluents;
- 2) The results of the environmental monitoring program;
- 3) The data shall be reported in a manner that will permit the Department to confirm the potential annual radiation doses to the public;
- 4) A summary of license survey and maintenance activities;
- 5) A summary of activities, quantities of licensed material processed, stored, transferred, disposed of, and released;
- 6) Any instances in which observed site facility, process or equipment characteristics were significantly different from those described in the application for a license; and
- 7) If the quantities of radionuclides released are more than 25 percent greater than those anticipated in the license application, or if unanticipated maintenance is performed, a discussion of the cause of the release or the reason for the maintenance.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PROFESSIONAL REGULATION

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- 1) Heading of the Part: Private Detective, Private Alarm and Private Security, Act of 1993

- 2) Code Citation: 68 Ill. Adm. Code 1240

3) Section Numbers:

Section Numbers:	Proposed Action:
1240.51	Renumbered
1240.65	Renumbered
1240.66	Renumbered
1240.70	Renumbered
1240.100	New Section
1240.110	New Section
1240.130	New Section
1240.140	New Section
1240.150	New Section
1240.160	New Section
1240.170	New Section
1240.180	New Section
1240.190	New Section
1240.200	Renumbered and Amended
1240.210	Renumbered
1240.220	Renumbered
1240.230	Renumbered

- 4) Statutory Authority: The Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 (225 ICS 446)

- 5) A Complete Description of the Subjects and Issues Involved: Section 77 of the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 provides that on or after January 1, 1997, no person shall practice as a locksmith in this State and no business entity shall operate as a locksmith agency without first obtaining a license from the Department of Professional Regulation.

This rulemaking establishes requirements and procedures for obtaining a locksmith license in Illinois.

A new Subpart B is created to provide rules specifically related to locksmith licensure. Also, a Subpart C is created by renumbering 4 Sections in the existing rules that provide general requirements for locksmiths that are also pertinent to licensure of the private detective, private alarm and private security professions regulated under the same Act.

Individuals who present proof to the Department of Professional Regulation that they were actively engaged as locksmiths or as supervisors, managers or administrators of a locksmith business for 3 years out of the 5 years

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immediately preceding January 1, 1996, and who meet all other requirements of the Act, may obtain locksmith licenses under grandfathered provisions of the Act. This will enable them to obtain locksmith licenses without examination. The grandfather period will end January 1, 1998.

Those seeking licensure by examination will need to apply to the Department at least 60 days prior to the exam date. They must pass the exam with a score of at least 70 and meet other requirements specified in the proposed rules. One of these requirements is proof of at least \$1 million of liability insurance.

Employees of any locksmith agency certified under the Act will be required to complete, within 30 days after their employment, a 20-hour basic training course described in the proposed rules.

The proposed rules also tell how to qualify for and obtain a permanent employee registration card and under what circumstances the Department may refuse to issue such a card.

Renewal of locksmith licenses will be every 3 years, beginning May 31, 1999. Also beginning with the May 1999 renewal, locksmith agency and branch office registration will expire on August 31 every 3 years. Beginning with the May 2000 renewal, every employee registration card issued under the Act shall expire on May 31 every 3 years.

Other proposed new Sections list recordkeeping and reporting requirements, tell how a person licensed under the laws of another jurisdiction can apply for a locksmith license in Illinois and how a person can restore a locksmith license that has expired.

Renumbered under "Subpart C: General" are Sections pertaining to requests for duplicate certificates, conduct of background investigation by the Department and the granting of variances from these rules.

- 6) Will these proposed amendments replace emergency rules currently in effect? Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

- 11) Title, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

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Department of Professional Regulation  
 Attention: Jean A. Courtney  
 370 West Washington, 3rd Floor  
 Springfield, IL 62786  
 217/785-0913

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Locksmith businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: Employers licensed under the Act are required to maintain files containing specified materials on each employee. These files are to be maintained by the Locksmith agency for 2 years after termination of the employee. The Locksmith agency must also maintain a copy of the Department of Professional Regulation's written 30 day notice if they are the subject of any conviction, arrest or indictment. All locksmith agencies are required to submit a monthly roster of employees with Permanent Employee Registration Cards (PERC) applications pending with the Department.
- C) Types of professional skills necessary for compliance: Locksmith skills are required for licensure.

## 13) Regulatory Agenda on which this rulemaking was summarized: January 1996

The full text of the Proposed Amendment(s) begins on the next page:

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS  
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
 SUBCHAPTER B: PROFESSIONS AND OCCUPATIONS

## PART 1240

PRIVATE DETECTIVE, PRIVATE ALARM, AND  
 PRIVATE SECURITY, AND LOCKSMITH ACT OF 1993

## SUBPART A: PRIVATE DETECTIVE, PRIVATE ALARM AND PRIVATE SECURITY

Section	Licensure Under Section 6 of the Act (Repealed)
1240.5	Exemptions Under Section 30 of the Act
1240.7	Application for Examination and Licensure - Private Detective and Private Security Contractor
1240.10	Application for Examination and Licensure - Private Alarm Contractor
1240.15	Application for Examination and Licensure - Private Security Service
1240.16	20-Hour Basic Training Course - Security Guards and Alarm Runners
1240.20	20-Hour Basic Training Course - Security Guards and Alarm Runners
1240.25	20-Hour Basic Training Course - Security Guards and Alarm Runners
1240.30	Firearm Training Course
1240.35	Approval of Training Programs and Instructors
1240.40	Permanent Employee Registration Cards
1240.41	Refusal to Issue Employee Registration Card or Firearm Authorization Card Due to Criminal History Record Information
1240.45	Firearm Authorization Cards
1240.46	Recordkeeping Requirements
1240.47	Reporting Requirements
1240.48	Uniforms
1240.50	Renewals
1240.51	Requests for Duplicate Certificates (Renumbered)
1240.55	Restoration
1240.60	Restoration
1240.65	Conduct of Hearings (Renumbered)
1240.66	Investigation by the Department (Renumbered)
1240.70	Granting Variances (Renumbered)

## SUBPART B: LOCKSMITH

Section	Application for Licensure without Examination - Grandfather
1240.100	Application for Examination and Licensure - Locksmith
1240.110	20 Hour Basic Training Course - Locksmith
1240.120	Permanent Employee Registration Cards
1240.130	Renewals
1240.140	Requests for Duplicate Registration Card
1240.150	Restoration
1240.160	Reporting Requirements
1240.170	Renewals
1240.180	Endorsement







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Individual shall be issued, by the employer or the instructor, a Certification of Completion of the 20-Hour Basic Training Course, which shall be signed by the instructor. The licensee-in-charge shall be responsible for the documentation of the training.

- d) The Certification shall be the permanent record of training and shall be retained by the individual as proof of the training. During the term of the individual's employment with an agency licensed by the Department, the Certification or a certified copy shall be filed by the employer with the employee statement and shall remain in the file during the term of employment. Upon termination of employment the original Certification shall be returned to the employee.
- e) In the event of an agency or instructor who is not a one employer, the Certification of Completion of the 20-Hour Basic Training Course shall be kept with the employee statement in lieu of the original Certification.
- f) Basic training materials will be made available to Department personnel upon request to verify content.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.130 Permanent Employee Registration Cards

- a) Any person seeking employee registration under Section 80 of the Act shall file an application with the Department, on forms provided by the Department, along with the following:

- 1) Statement:
  - a) Verification of fingerprint processing from the Illinois Department of State Police or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police or its designated agent for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 103(d)(13) of the Act; or
  - b) Verification, on forms provided by the Department, of full-time employment as a peace officer in lieu of certification of fingerprint processing from the Illinois Department of State Police or its designated agent. A peace officer defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses and has satisfied the training requirements of the Illinois Police Training Act. For purposes of this Section, officers,

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agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers:

- 2) One 1" x 1" photograph taken within the 3 months preceding application; and
- 3) The required registration fee specified in Section 105 of the Act, made payable to the Department of Professional Regulation.
- b) The application, verification of fingerprint processing and the registration fee shall be submitted to the Department prior to the applicant's scheduled work.
- c) If the applicant is a peace officer, the Department shall issue to the applicant permanent employee registration card, which shall be valid for the period specified on the face of the card and shall be renewable upon the conditions set forth in Section 1240.50 of this Part.
- d) The employee registration card shall serve as proof to an employer that the bearer thereof is eligible for employment.
- e) Persons who have no access to confidential or security information and who do not provide locksmith services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of reception personnel who have no access to confidential or security information. Confidential or security information is that which pertains to employee files, key records, customer access codes or combinations of technical data.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.140 Refusal to Issue Employee Registration Card

- a) For purposes of this Section, criminal history record information is defined as information collected by criminal justice agencies (defined in the Criminal Identification Act [20 ILCS 2630]) on individuals consisting of identifiable descriptions and notation of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and information sufficient to identify the formal justice transaction involving the individual.
- b) In determining whether an applicant for a permanent employee registration card is unfit for such registration because of criminal history record information, the Department shall consider the following standards:
  - 1) Whether the crime(s) was one of armed violence (see 720 ILCS 5/Art. 33A) or moral turpitude. Moral turpitude consists of:
    - A) Crimes involving dishonesty, false statement or some other



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element of deceit, untruthfulness or falsification (including, but not limited to, perjury, inducement of perjury, false statement, criminal fraud, embezzlement, drug offenses including, but not limited to, the Illinois Controlled Substances Act [720 ICS 570] and Federal Drug Enforcement Laws, 21 U.S.C. 801 et seq.).

C. Sex offenses including, but not limited to, all crimes listed in Article 11 of the Criminal Code of 1961 [720 ICS 5/Art. 11].

2) Whether the crime is related to the locksmith, detective, security or alarm profession.

3) Whether the crime occurred during the period has elapsed since the date of the conviction of the licensed licensee.

4) Whether the conviction was from a city ordinance violation or conviction for which a jail sentence was not imposed.

5) Whether the applicant has been sufficiently rehabilitated to warrant the public trust. The Department shall consider, but not be bound by, the following in considering whether an applicant has been resumed to be rehabilitated:

A. Completion of probation;

B. Completion of parole supervision; or

C. If no parole was granted, a period of 10 years has elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.

c) If any one of the following factors exists, this outweighs the presumption of rehabilitation as defined in subsection (b)(3) above:

1) Lack of compliance with terms of punishment i.e., failure to pay parole; make restitution; violation of the terms of probation or parole;

2) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;

3) Falsification of an application for registration with the Department;

4) Failure to furnish to the Department additional information or information to appear at a conference with the Department in relation to the applicant's application for registration.

d) The following criminal history records shall not be considered in connection with an application for registration:

1) Juvenile adjudications;

2) Records of arrest not followed by a conviction;

3) Convictions overturned by a higher court;

4) Convictions that have been the subject of a pardon or commutation.

e) If determined that the applicant is unfit for registration, the applicant shall be so notified in writing that the Department intends to deny or intends to refuse to renew the permanent employee registration card. The applicant/licensee shall be given an

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opportunity to appear at a Department conference regarding the matter. Failure to appear at the conference shall result in the denial of or the refusal to renew an applicant's permanent employee registration card. If the applicant chooses not to attend the conference, he/she may request a formal hearing regarding such determination prior to final action by the Department in accordance with 68 Ill. Adm. Code 1110.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.150 Recordkeeping Requirements

a) Each employer licensed under the Act shall maintain a file on each employee pursuant to Section 80 of the Act. The employee file shall be maintained by the agency for 2 years after termination of the employee. The file shall be accessible to duly authorized representatives of the Department with 24 hours prior notice and shall contain the following information:

1) A photograph of the employee taken within 10 days of the date the employee commences employment. The photo shall be replaced each 3 calendar years;

2) The employee's statement required in Section 80(b) of the Act;

3) All correspondence or documents related to the character and integrity of the employee received by the employer from an official source of law enforcement;

4) The name and address of the last employer of a terminated employee pursuant to Section 80(b) of the Act;

5) Application for employment;

6) Certification of Completion of Basic Training as provided in Section 1240.120 of this Part;

7) Copy of employee's Permanent Employee Registration Card; and

8) Copy of the verification of fingerprint processing from the Illinois Department of State Police or its designated agent.

b) A locksmith who owns a residence or commercial establishment or safe, vault, safe deposit box, automatic teller machine, or other device for safeguarding areas where access is meant to be limited for another, whether or not for compensation, shall document the street address where the work was performed on a work order form. The locksmith shall also document the name, address, telephone number, date of birth, and driver's license number or other identification number of the person requesting the work. The person must obtain the signature of the person requesting the work and the person performing the work.

c) The license shall be renewed for a period of 2 years and shall also include the name and license number of the locksmith or the name and employee identification number of the registered employee who performed the services. Work order forms required to be kept under this subsection shall be available for inspection upon written request

## DEPARTMENT OF PROFESSIONAL REGULATION

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made 3 days in advance by any law enforcement agency.

- c) A licensee who owns a motor vehicle for another, whether or not for a business purpose, shall, on a work order form the name, address, telephone number, date of birth, date of license renewal, and other identification number of the person requesting the license, and the signature of that person. A copy of each work order form shall be kept by the licensed locksmith for a period of 2 years and shall also include the name and license number of the locksmith or the name and employee identification number of the registered employee who performed the services. Work order forms required to be kept under this Section shall be available for inspection upon written request made 3 days in advance by any law enforcement agency. (Section 92 of the Act)

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.160 Revocations Requirements

- a) All licensees and registrants shall notify the Department in writing within 30 days after any conviction(s), arrest(s), and/or indictment(s) against him/her.
- b) All agencies shall submit a monthly roster of employees with PRC application(s) pending with the Department.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.170 Renewals

- a) Beginning with the May 1999 renewal, every individual license issued under the Act shall expire on May 31 every 3 years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee set forth in Section 105 of the Act and providing proof of liability insurance as evidenced by a certificate of insurance from the insurer.
- b) Beginning with the May 1999 renewal, every certificate of registration for an agency and every branch office issued under the Act shall expire on August 31 every 3 years. The holder of a certificate of registration may renew such certificate during the month preceding the expiration date thereof by paying the required fee.
- c) Beginning with the May 2000 renewal, every employee registration card issued under the Act shall expire on May 31 every 3 years. The holder of the card may renew such card during the month preceding the expiration date by paying the required fee to the Department. It is the responsibility of the licensee and employee registration card holder to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not

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constitute an excuse for failure to renew one's license or employee registration card or to pay the renewal fee. Practicing on an expired license or employee registration card is unlicensed practice and subject to discipline under Section 130 of the Act.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.180 Endorsement

- a) An applicant who is licensed under the laws of another jurisdiction shall file an application with the Department together with:

- 1) A certification from the licensing authority of the jurisdiction stating:
    - A) The time during which the applicant was licensed in that jurisdiction;
    - B) Whether the file on the applicant contains a record of any disciplinary action taken or pending;
    - C) Received and paid portion of the examination taken and the grades received; and
    - D) That the jurisdiction has substantially equal rules of endorsement (see Section 100 of the Act); and
  - 2) The required fee specified in Section 105 of the Act.
- b) If the Department questions the documentation provided by the applicant because of discrepancies or conflicts in information, or missing information, or if the Department needs further information to determine substantial equivalence of the applicant's qualifications for licensure, the applicant will be requested to submit further information as the Department deems necessary to make such determination.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1240.190 Restoration

A licensee seeking restoration of a license shall file an application on forms provided by the Department and shall also submit the following:

- a) If the license has expired for 6 years or less, the application must be accompanied by the required fees specified in Section 105(d)(7) of the Act or an affidavit attesting to military service as provided in Section 105(c) of the Act.
- b) If the license has expired for more than 6 years, the application must be accompanied by a request to be scheduled for the next available examination, a fee covering the cost of the examination and the required restoration fee specified in Section 105(d)(8) of the Act.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART G: GENERALSection 1240-21 1240-200 Requests for Duplicate Certificates

- Requests for duplicate certificates to replace ones that have been lost, stolen or destroyed shall be made in writing to the Department and shall be made by the individuals to whom the certificates were issued.
- Any person requesting a duplicate firearm authorization card shall first file a report with the local police authority that specifies the circumstances under which the firearm authorization card was lost, stolen or destroyed.
- Requests for a duplicate firearm authorization card shall be accompanied by an affidavit from the person making the request, specifying the date and with what police authority the above-mentioned police report was filed, and summarizing the circumstances under which the firearm authorization card was lost, stolen or destroyed. The fee, as required by Section 105 of the Act, shall also accompany the request.
- For purposes of this Section, the word "certificates" shall mean and include the following:
  - Individual licenses (Private Detective, Private Security Contractor and Private Alarm Contractor and Locksmith)
  - Certificates of Registration for an agency
  - Private Security License
  - Permanent Employee Registration Cards
  - Certification of Completion of Firearm Training
  - Firearm Authorization Card.

(Source: Section 1240.200 renumbered from Section 1240.51 and amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 1240-65 1240-210 Conduct of Hearings

Any hearing conducted by the Department pursuant to Section 130 of the Act shall be conducted in accordance with the Department's Rules of Practice in Administrative Hearings (68 Ill. Ann. Code 110).

(Source: Section 1240.210 renumbered from Section 1240.65 at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 1240-66 1240-220 Investigation by the Department

- The Department may conduct an investigation for the purpose of investigating an applicant or application, an agency, a licensee, a registrant or any other party for an alleged violation of the Act or

## DEPARTMENT OF PROFESSIONAL REGULATION

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this Part.

- The Department may require an applicant, an agency, a licensee or registrant to produce warrant documents, records or any other material pertinent to the investigation, including records of the Act or this Part. Failure to provide such material shall be grounds for disciplinary action, as authorized by Section 120 of the Act.

(Source: Section 1240.220 renumbered from Section 1240.66 at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 1240-79 1240-230 Granting Variances

- The Director may grant variances from these rules in individual cases where he/she finds that:
  - The provision from which the variance is granted is not applicable to the particular case.
  - No party will be injured by the granting of the variance, and the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- The Director shall notify the Board of the granting of such variance, and the reasons therefor, at the next meeting of the Board.

(Source: Section 1240.230 renumbered from Section 1240.70 at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Structural Pest Control Code.

2) Code Citation: 77 Ill. Adm. Code 830

3) Section Numbers: PROPOSED ACTION:

830.10 Amendment  
830.20 Amendment  
830.200 Amendment  
830.250 Amendment  
830.450 Amendment  
830.860 New Section  
830.1000 New Section  
830.1100 New Section

4) Statutory Authority: Structural Pest Control Act (225 ILCS 235)

5) A Complete Description of the Subjects and Issues Involved: A new Subpart I is added which establishes regulations for protecting potable water well supplies and groundwater at commercial structural pest control business locations where pesticides may be stored within setback zones and regulated recharge areas established under the Environmental Protection Act. These rules will place a limit on liquid storage, require secondary containment of liquid pesticides, provide containment specifications, establish containment and inspection procedures, require closure management of pesticides and containers, require record keeping for the storage site (Sections 830.1000 and 830.1100). New definitions will be added to explain groundwater regulation terms (Section 830.10). A definition concerning use inconsistent with the label will be amended to reflect the federal definition as found in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Other amendments will make minor changes to the certification renewal requirements (Section 830.200), classify violations of Section 830.310 and the new groundwater regulations as Type C violations (Section 830.710), eliminate the need to store unmixd bats in the pesticide storage area (Section 830.850), and provide an alternative to storing or disposing of pesticides placed under Stop Sale/Use Orders issued by the Department (Section 830.860).

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

7) Does this Rulemaking Contain an Automatic Renewal Date? No

8) Does this Rulemaking Contain any Incorporations by Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: No adverse impact on local governments.

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11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing to

Gail M. Devito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62741

within 45 days after this issue of the *Illinois Register*. In addition, testimony may be presented at a public hearing which will be held at least three weeks after publication of the Notice of Public Hearing in the *Illinois Register*.

These rules may have an impact on small businesses. In accordance with Sections 1-20 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Structural Pest Control Businesses (new groundwater regulations will only affect those commercial structural pest control businesses which store or desire to store pesticides within well setback zones or regulated recharge areas established under the Environmental Protection Act).

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Individuals storing pesticides within well setback zones will have to certify their intent to certify with the Department in order to store pesticides within the setback zones. The Department in order to certify with the Department, the Illinois Environmental Protection Agency under 35 Ill. Adm. Code 615, 616 or 679. They will also be required to perform monthly inspections of pesticide containers and containment areas and record the results of these inspections for review by the Department. Finally, these same individuals will need to provide written certification to the Department when the business closes the storage site to confirm that the closure requirements of the groundwater rules have been completed.

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- C) Types of Professional Skills Necessary for Compliance: None
- 13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: January 1996

The full text of the Proposed Amendments begins on the next page:

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ARTICLE 77. PUBLIC HEALTH  
CHAPTER 1. DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C. PEST CONTROL

## PART 830

## STRUCTURAL PEST CONTROL CODE

## SUBPART A: GENERAL

Section	Definitions
830.10	Referenced
830.20	Incorporated Materials

## SUBPART B: GENERAL REQUIREMENTS

Section	License Application for Commercial Structural Pest Control Business
830.100	Location
830.110	Registration Application for Non-Commercial Structural Pest Control Location
830.120	Application for Examination as a Certified Structural Pest Control Technician
830.130	Re-examination Applications
830.140	Application of Certified Technicians for Examination in Other Sub-categories
830.150	Processing (Repealed)
830.160	Approved Applications (Repealed)
830.170	Disapproved Applications (Repealed)
830.180	License and Registration Renewals
830.190	Change of Business Ownership
830.200	Certification Renewals
830.210	Continuing Education
830.220	Non-renewal of Technician Certificates
830.230	Certified Technician at Each Location
830.240	Change of Certified Technician at Place of Employment
830.250	Certificates of Insurance
830.260	Insurance Coverage
830.270	Supervision of a Non-certified Technician
830.280	Inspections and Investigations (Repealed)
830.290	Classification of Pesticides
830.300	Application for Certification in Illinois as a Structural Pest Control Technician by Reciprocity
830.310	Display of License, Registration and Certification
830.315	Procedures for Certification as a Structural Pest Control Technician in Wood Products Pest Control (Repealed)

## SUBPART C: EXAMINATIONS



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Section  
830.400 General Provisions  
830.410 Examinations  
830.420 Examination Schedules (Repealed)  
830.430 Grades  
830.440 Notification of Examination Results  
830.450 Confidentiality of Examination Scores  
830.460 Examinee's Review of Examination

## SUBPART D: PEST CONTROL COURSES

Section  
830.500 Application  
830.510 Application (Repealed)  
830.520 Instructors  
830.530 Pest Control Course Description  
830.540 Record of Completion  
830.550 Pest Control Course Evaluation  
830.560 Approval (Repealed)  
830.570 Disapproval of an Application or Recission of Approval (Repealed)

## SUBPART E: PEST CONTROL TRAINING SEMINARS (RECERTIFICATION)

Section  
830.600 Application  
830.610 Application (Repealed)  
830.620 Instructors  
830.630 Pest Control Seminars  
830.640 Record of Completion  
830.650 Pest Control Seminar Evaluation  
830.660 Approval (Repealed)  
830.670 Disapproval of an Application or Recission of Approval (Repealed)

## SUBPART F: HEARINGS AND ADMINISTRATIVE FINES

Section  
830.700 Hearings  
830.710 Administrative Fines

## SUBPART G: SAFE PESTICIDE STORAGE AND HANDLING

Section  
830.800 General Safety Precautions  
830.810 Misuse of Pesticides  
830.820 Records  
830.830 Pesticide Storage Area  
830.840 Service Vehicles  
830.850 Pesticide Storage Practices

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830.860 Orders to Stop Sales, Stop Use, Seize or Regulate Removal  
830.870 Hazardous Incident Notification and Abatement

## SUBPART H: BIRD CONTROL REQUIREMENTS

Section  
830.880 Avicide Permit Requirements  
830.885 Denial or Revocation of Avicide Permits  
830.890 Bird Control Monitoring and Reporting Requirements  
830.900 Bird Control Training Requirements

## SUBPART I: GROUNDWATER PROTECTION

Section  
830.1000 Scope and Applicability  
830.1100 Protection of Potable Water Supplies

ILLUSTRATION A WARNING SIGN-PESTICIDE TREATMENT & VENTILATION  
ILLUSTRATION B RESTRICTED USE PESTICIDE SIGN  
TABLE A SCHEDULE OF ADMINISTRATIVE CIVIL FINES

AUTHORITY: Implementing and authorized by the Structural Pest Control Act [225 ILCS 235], Illinois Pesticide Act [415 ILCS 60] and in particular Section 3.2 [415 ILCS 60/3.2], Section 11(b) of the Illinois Endangered Species Protection Act [520 ILCS 10/11(b)], the Federal Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), and Section 14.6 of the Environmental Protection Act [415 ILCS 5/14.6].

SOURCE: Adopted at 2 Ill. Reg. 19, p. 159, effective May 3, 1978; codified at 8 Ill. Reg. 18492; emergency amendment at 10 Ill. Reg. 17812, effective September 28, 1986, for a maximum of 150 days; emergency amendment expired on February 24, 1987; amended at 11 Ill. Reg. 7736, effective April 15, 1987; amended at 13 Ill. Reg. 2090, effective February 3, 1989; emergency amendments at 14 Ill. Reg. 1036, effective December 22, 1989, for a maximum of 150 days; emergency amendment expired on May 21, 1990; amended at 14 Ill. Reg. 12889, effective August 1, 1990; amended at 16 Ill. Reg. 11612, effective July 6, 1992; amended at 18 Ill. Reg. 14404, effective September 15, 1994; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 830.10 Definitions

In addition to the definitions contained in the Structural Pest Control Act [225 ILCS 235] ~~###-Rev#-Start-1989-ch#-###-1/2;-para--229#-et--seq#~~, the following definitions, when used herein, shall apply:

"Act" means the "Structural Pest Control Act [225 ILCS 235] ~~###-Rev#~~



DEPARTMENT OF PUBLIC HEALTH  
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82SR-1993-2H-111-1/2-9-PAR-2201-EE-SEQ-1."

"Active ingredient" means any ingredient which will prevent, destroy, repel, control or mitigate a pest.

"Applicant" means any person making an application for a license, registration, examination or certification.

"Avicide" means a pesticide used for bird control, other than a device, which is designed to kill birds when used in a manner consistent with its labeling.

"Back flow preventer or vacuum breaker device" means a device, approved by the Illinois Plumbing Code (77 Ill. Adm. Code 890) used to prevent backflow or back-siphonage of contaminated water or liquid into a water supply system.

"College or university course in related field" means three semester hours or four quarter hours of a college course in biological sciences, physics or chemistry.

"Community Water System" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days per year. (Section 9(a)(1) of the Illinois Groundwater Protection Act [415 ICS 55/9(a)(1)])

"Crack and crevice treatment" means the application of small amounts of a pesticide directly into a crack, crevice, expansion joint, between different elements of construction, between equipment and floors, or into an opening that leads into voids such as hollow walls, equipment legs and bases, conduits, motor housings, junction or switch boxes, where insects may be present.

"Department" means the Illinois Department of Public Health.

"Existing storage unit" means a storage unit that was in operation or for which there was commencement of construction on or before the effective date of a regulated recharge regulation affecting the storage unit.

"FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act.

"File a renewal application" means the process of completing the renewal form and submitting it to the Department along with the applicable renewal fee as set forth in Section 9 of the Act and evidence either attached to the renewal form or on file with the Department which would indicate that the license, certification or registration renewal requirements of Sections 4(e) and 6 of the Act

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and Sections 930.180 and 930.200 of this Part have been met.

"Food area" means an area where food is handled, received, packaged, held, processed, prepared, or served.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the zone space is equal to or greater than atmospheric pressure. (Section 3(a) of the Illinois Groundwater Protection Act [415 ICS 55/3(a)])

"Insurance company authorized to transact business" means an insurance company which has been issued a Certificate of Authority by the Director of the Department of Insurance.

"Manner--inconsistent--with--its--labeling"--means--the--use--of--a--pesticide--in--a--manner--not--permitted--by--the--labeling--but--does--not--include,--the--pesticide--manufacturer--indicates--to--the--strategy--via--written--statements--to--the--pesticide--manufacturer--that--it--should--be--advisable--or--if--it--is--detrimental--to--man--or--his--environment--the--application--of--a--pesticide--which--will--eliminate--or--control--a--pest--at--a--dosage--concentration--or--frequency--less--than--specified--on--the--labeling--for--a--target--pest--not--identified--on--the--labeling--as--long--as--the--application--site--is--addressed--and--the--labeling--does--not--prohibit--the--user--or--by--method--of--application--not--prohibited--by--the--labeling--from--applying--the--pesticide--in--accordance--with--the--product--labeling--unless--there--are--written--statements--from--the--manufacturer--prior--to--treatment--that--indicates--that--another--use--is--more--appropriate.

"Method" means any action or procedure used to determine the presence or absence of a pest.

"Pest control course" means an educational program which addresses the basic theoretical or practical knowledge of pesticides and their application, approved by the Department pursuant to Subpart D of this Part, and is equivalent to six months experience for original certification.

"Pest control specialist" means a person who has a degree from a recognized college or university in one or more fields related to structural pest control and/or pesticides or has a specialized area of interest pertaining to chemical manufacturing and/or research, chemistry, entomology, or environmental sanitation and engineering.

"Pest control training seminar" means a recertification training program which provides the technical and legal aspects of present structural pest control technology, approved by the Department pursuant to Subpart E of this Part.

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" potable " means generally fit for human consumption in accordance with accepted water supply principles and practices." (Section 3(h) of the Illinois Groundwater Protection Act [415 ILCS 55/3(h)])

" private water system " means any supply which provides water for drinking, culinary, and sanitary purposes and serves an owner-occupied single family dwelling." (Section 9(a)(5) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(5)])

" public water system " means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 persons daily at least 15 days per year." The term "public water system" includes any system of pipes, conduits, or other devices and facilities under the control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system." (Section 9(a)(6) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(6)])

" purchasing group " means a purchaser of group insurance which group has registered with the Director of the Department of Insurance."

" recognized college or university " means an educational institution which has been recognized or approved by the Board of Higher Education or equivalent, in the State in which it is located; and/or which is a member of the National Association of Public Secondary Education Association recognized by the Council on Post Secondary Authorization." In either instance, the college or university must be authorized to confer a degree in the fields of Biological Sciences, Entomology, Zoology, or related fields.

" regulated Recharge Area " means a compact geographic area, as determined by the Illinois Pollution Control Board, the geology of which renders a notable resource groundwater particularly susceptible to contamination." (Section 3(i) of the Illinois Groundwater Protection Act [415 ILCS 55/3(i)])

" risk retention group " means an insurance company incorporated and licensed in one of the States of the United States and registered with the Director of the Department of Insurance."

" secondary containment structure " means any structure used to contain liquid pesticides and prevent unoff or leaching into the groundwater."

" service container " means any non-food container utilized to temporarily hold, store or transport a pesticide concentrate or registered ready-to-use product other than the original labeled

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container provided by the manufacturer, the measuring device or the application device."

" setback zone " means a geographic area established under the Environmental Protection Act [415 ILCS 5] which, for the purposes of Sub-part I of this Part, contains a potable water supply well and a storage unit, having a continuous boundary within which certain prohibitions or regulations for groundwater protection are applicable."

" signal word " means a word or phrase found prominently displayed on the pesticide label which offers an indication of the toxicity and potential danger of a pesticide."

" storage unit " means an area, structure, or any other mechanism used to store or accumulate pesticides for commercial application purposes."

" to use any registered pesticide in a manner inconsistent with its labeling " means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include:

applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency;

applying a pesticide against any target pest not specified on the labeling of the application to which the pesticide is being applied; or  
 applying a pesticide to a crop, animal, or person, unless the USDA has specifically determined that the pesticide is safe for use on that crop, animal, or person, and the labeling specifically states that the pesticide may be used only for the pests specified on the labeling after the Administrator of the USDA has determined that the use of the pesticide against other pests would cause unreasonable adverse effect on the environment;

employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling;

any use of a pesticide in conformance with Section 5, 18, or 24 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136e)(1) or

any use of a pesticide in a manner that the Administrator of the USDA determines to be consistent with the purpose of FIFRA.

" treatment period " means the period of time necessary for a room or area to remain closed to unauthorized individuals in order to allow an effective treatment and subsequent drying or settling of the pesticide

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in accordance with label directions or, in their absence, manufacturer's recommendations.

"USEPA" means the United States Environmental Protection Agency.

"water well" means any excavation, except a monitoring well, that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of groundwater.

"Work Site" means and includes any location at which pesticides are handled, mixed, stored, or applied.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 830.20 Referenced Incorporated Materials

The following State and federal laws and State rules are referenced in this Part:

- 1) Illinois Pesticide Act (415 ILCS 601) (Section 830.710, Section 830.720, Section 830.730, 830.740, 830.750, 830.760, 830.770, 830.780, 830.790, 830.800, 830.810, 830.820, 830.830, 830.840, 830.850, 830.860, 830.870, 830.880, 830.890, 830.900, 830.910, 830.920, 830.930, 830.940, 830.950, 830.960, 830.970, 830.980, 830.990, 830.1000)
- 2) Illinois Endangered Species Protection Act (150 ILCS 101) (Section 830.880)
- 3) Illinois Groundwater Protection Act (415 ILCS 551) (Section 830.10, and Section 830.1100)
- 4) Environmental Protection Act (415 ILCS 5) (Section 830.10, Section 830.1000 and Section 830.1100)
- 5) The following State rules are referenced in this Part:
  - 1) Illinois Pesticide Act (8 Ill. Adm. Code 250) promulgated by the Illinois Department of Agriculture (Section 830.860)
  - 2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) promulgated by the Illinois Department of Public Health (Section 830.710)
  - 3) Illinois Department of Public Health (Section 830.890) promulgated by the Illinois Department of Public Health (Section 830.890)
  - 4) Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 10.0) promulgated by the Illinois Department of Natural Resources (Section 830.880)
  - 5) Existing Activities in A Setback Zone Or Regulated Recharge Area (35 Ill. Adm. Code 615) promulgated by the Illinois Pollution Control Board (Section 830.1000)
  - 6) New Activities in A Setback Zone Or Regulated Recharge Area (35 Ill. Adm. Code 616) promulgated by the Illinois Pollution Control

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- 7) Board (Section 830.1000)
- 8) Minimal Hazard Certification (35 Ill. Adm. Code 670) promulgated by the Illinois Pollution Control Board (Section 830.1000)
- 9) Cooperative Groundwater Protection Program (8 Ill. Adm. Code 257) promulgated by the Illinois Department of Agriculture (Section 830.1000)

10) The following Federal laws are referenced in this Part:

- 1) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 et seq.) also referred to as the Federal Environmental Pesticide Control Act of 1972 (Section 830.10, Section 830.710 and Section 830.800)
- 2) Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (Section 830.890)
- 3) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 4) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 5) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 6) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 7) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 8) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 9) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 10) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 11) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 12) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
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- 18) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 19) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 20) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 21) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
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- 99) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)
- 100) Illinois Pesticide Act (8 Ill. Adm. Code 250) (Section 830.860)

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: GENERAL REQUIREMENTS

## Section 830.200 Certification Renewals

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a) Renewal applications will be mailed to all certified technicians in possession of a valid structural pest control technician certificate at least 30 days prior to December 1 during the year of certification expiration, provided that the following items are on file with the Department by October 1 of that year:

- 1) A valid, current home address; and
  - 2) Verification of attendance at the required number of certification seminars during the certification period.
- b) A certified technician who desires a renewal application pursuant to subsection (3) of this Section may obtain one by submitting a written request to the Department.
- c) Renewal applications shall be reviewed for accuracy by the certified technician. Any changes of employment, name, or home address shall be recorded where indicated need on the back of the renewal application.
- d) If a renewal application is filed in a timely and sufficient manner, it will be processed by the Department and the current certification shall continue in full force and effect until the Department issues either a certification renewal or a Final Order denying the application.

e) For purposes of this Section, a timely and sufficient manner means that:

- 1) the application is postmarked by December 1 of the year of certification expiration;
- 2) the application is made using the Department's technician renewal form;
- 3) the application is signed by the certified technician;
- 4) a check or money order for the renewal fee required by Section 9 of the Act is enclosed; and
- 5) documentation of attending at least one Department approved pest control training seminar during the 3 years prior to renewal application is either on file with the Department or enclosed with the renewal application.

f) A renewal application which does not comply with subsection (e)(2) through (5) of this Section shall be considered insufficient and returned to the applicant, and the current certification shall lapse on the December 31 expiration date.

g) Renewal application, which is sufficient but not timely filed after the expiration date, shall be processed by the Department and the current certification shall lapse after the December 31 expiration date. If such application is postmarked after December 31 of the year of expiration, the renewal fee shall include the late filing charge required by Section 9 of the Act and Section 830.210 of this Part in order to be considered a sufficient application.

h) The Department's acceptance of an application as sufficient for processing shall not be construed as a determination of the merits of the application or the technician's qualifications for certification renewal.

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(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: HEARINGS AND ADMINISTRATIVE FINES  
Section 830.710 Administrative Fines

- a) The Department is authorized to assess administrative civil fines against a certified technician or certified technician for violations of the Act or this Part. These fines may be assessed in addition to, or in lieu of, license, registration, or certification suspensions and revocations.
- b) The amount of a fine shall be determined in accordance with the Schedule of Administrative Civil Fines in Section 830.800, Table A and the following criteria:
  - 1) A violation, for the purposes of this Section, will be considered to mean a finding of violation of a section of the Act or this Part by a court of competent jurisdiction in this or any other State, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with Section 14 of the Act;

- 2) For purposes of determining a second violation, an initial violation means a violation of a particular Section of the Act or this Part within the previous three years or since the effective date of this amendment, whichever is less;
- 3) Each location shall be considered separately with regard to violation determinations under this Part;
- 4) A type A violation is any one of the following:
  - A) Failure to observe the general safety precautions of Section 830.800.
  - B) Failure to abide by any stop sale or stop use order issued under Section 830.850.
  - C) Failure to notify the Department of any incident or accident involving pesticides as required in Section 830.870.
  - D) Use of a pesticide in a manner inconsistent with its labeling directions (Section 830.810).
  - E) Performing a pesticide application or inspection in a faulty, careless, or negligent manner (Section 13(d) of the Act).
  - F) Performing structural pest control in violation of the license and registration requirements of Section 4(a) or 4(b) of the Act.
  - G) Performing structural pest control in violation of the certification requirements of Section 4(c) and 5 of the Act and Section 830.230 and 830.270.
  - H) Performing structural pest control in violation of an order issued by the Director or his authorized representative (Sections 10(f), 13(a) and 14 of the Act).

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- I) Failure to use methods or materials suitable for structural pest control (Section 13(c) of the Act).
- J) Performing structural pest control utilizing or authorizing the use or sale of pesticides which are in violation of the FIFRA or the Illinois Pesticide Act (Section 13(i) of the Act).
- K) Performing avicide applications in violation of Sections 830-880 through 830-890.
- 5) A Type B violation is any one of the following:
  - A) Failure to cease pest control operations when there is an interruption in insurance coverage (Section 830-260(d)).
  - B) Making or reporting false, misleading or fraudulent information to the Department (Section 13(c) of the Act).
  - C) Fraudulent advertising or misrepresentation relating to structural pest control (Section 13(f) of the Act).
  - D) Allowing a license, permit, registration or certification to be used by another person (Section 4(f) and 6 of the Act).
  - E) Using the certification of a structural pest control technician in order to secure or maintain a license or registration when that individual is not actively employed at the business location (Section 6 of the Act).
  - F) Aiding or abetting a person to evade any provision of this Act (Section 13(g) of the Act).
  - G) Impersonating any Federal, State, county or city official (Section 13(h) of the Act).
  - H) Failure to allow the Department to perform inspections and investigations in accordance with Sections 10(g) and 10(h) of the Act.

6) A Type C violation is any one of the following:

- A) Failure to observe the pesticide storage requirements of Section 830-830.
- B) Failure to observe the service vehicle requirements of Section 830-840.
- C) Failure to observe the pesticide storage practices of Section 830-850.
- D) Failure to establish and maintain insurance in accordance with Section 9 of the Act and Sections 830-250 and 830-260 excluding subsection (b)(5)(A) of this Section.
- E) Failure to establish and maintain records of pesticide applications in accordance with Section 830-820.
- F) Failure of a licensee or registrant to provide written notification to the Department concerning the loss of their only certified technician and subsequent shutdown in accordance with Section 8 of the Act and Section 830-24(b).
- G) Failure of a licensee or registrant to provide written notification to the Department in accordance with Section 830-240(a).
- H) Failure to renew a license or registration in accordance

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- I) with Section 4(c) of the Act and Section 830-180.
- J) Failure to renew a structural pest control certification in accordance with Section 6 of the Act and Section 830-200.
- J) Failure to notify the Department of a change in business ownership in accordance with Section 830-190.
- K) Failure to perform the notification and license replacement procedures in accordance with Section 4(d) of the Act when there is a change in business location.
- L) Failure to provide information to the Department upon request in accordance with Section 13(e) of the Act.
- M) Failure to display or provide a current license, registration and certification in accordance with Section 830-190.
- N) Failure to observe the groundwater protection requirements in accordance with Subpart G of this Act.
- C) Any penalty not paid within 60 days after notice from the Department shall be submitted to the Attorney General's Office for collection. Failure to pay a penalty shall also be grounds for suspension or revocation of a license, permit, registration and certification.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART G: SAFE PESTICIDE STORAGE AND HANDLING

Section 830-850 Pesticide Storage Practices

All pesticides utilized by commercial or non-commercial pest control business locations and their employees shall be stored according to labeling instructions. The following pesticides are exempted from these labeling instructions. Where there is a discrepancy between labeling instructions and the following practices, the more stringent instructions shall prevail.

- a) Except as noted below in subsection (b), all pesticides shall be stored in closed, original containers, free from severe corrosion (e.g., rusted so as to affect the integrity of the containers; leaking) and pesticide contamination. The container, except 55 gallon drums, shall be stored on pallets, racks, shelves, or cabinets with the label plainly visible. Lost or damaged labels shall be replaced with an approved sample label obtained from the pesticide manufacturer or distributor, and fastened to the container. Damaged containers other than fumigants shall be replaced with identically labeled containers or, if not available, a properly labeled service container for temporary storage or transport.
- b) Service containers shall only be utilized to temporarily store or transport a pesticide once the ready-to-use product has been prepared. The following conditions are required:
  - 1) The service container shall bear a legible label which includes



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the following information:

- the name, address and telephone number of the commercial or non-commercial location using the product;
  - the product name and USEPA registration number;
  - the name and percentage of active ingredients;
  - the signal word for the registered label;
  - mixing instructions as well as the working dilution (if applicable);
  - the phrase "KEEP OUT OF REACH OF CHILDREN"; and
  - a statement of Practical Treatment; or
- 2) A copy of the current USEPA approved label for the registered pesticide attached to the service container along with the information presented in Section 830.850(b)(1)(A).
- 3) A service container shall be closed when not in use, clean so as to prevent the misuse of a pesticide as described in Section 830.810 of this Part, and non-leaking.
- c) Pesticides used for structural pest control shall be segregated from all other pesticides.
- d) Fumigants shall not be stored within any human dwelling or attached structure.
- e) Restricted use pesticides shall be stored in the locked storage area and the storage area shall be identified by a sign that reads "RESTRICTED USE PESTICIDES". The sign shall be a placard stating "RESTRICTED USE PESTICIDES" in bold, black, block letters on a yellow background. The sign shall be the same size, or larger, and contain the same information in the same proportion as that found in Illustration B.

- f) Non-restricted pesticides with a signal word "DANGER" on the label shall be kept segregated from other pesticides.
- g) Pesticides which cannot be used because of suspension by USEPA or regulatory action by the Illinois Department of Agriculture and/or this Department shall be marked as such and segregated from other stocks so that they are not used.
- h) No pesticide shall be stored in any food or beverage container or in the same room, or passenger area of a service vehicle, where food, eating utensils, beverage, tobacco products or household goods are stored—except for closed food or feed containers—used—only—for the purpose of transporting the pesticide in a sealed, leak-proof, clearly visible manner. "BB-109-BAY-USE-PBB-BAY-ONLY"—must be clearly visible and must be stored in the locked area—with the pesticides—to prevent unauthorized access.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 830.860 Orders to Stop Sale, Stop Use, Seize or Regulate Removal

- a) The Department shall issue a written order to stop the sale or use or to regulate the removal of any pesticide or device used in structural

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pest control which is sold, distributed, stored or used in violation of any provision of the Act and this Part, as well as the Illinois Pesticide Act and the rules pertaining to Pesticide Control, and FIFRA. The Department shall also have the authority to issue a written order to seize any pesticide used, sold, stored or distributed for structural pest control when continued use, sale, storage or distribution poses a threat to the health and safety of the residents of this State.

b) Said order shall be issued to the person in charge of any such pesticide or device. If the person in charge is not available for service of the order, the order will be attached to the pesticide or device.

c) Any individual who receives an order issued by the Department pursuant to this Section may submit a letter to the Department proposing an alternative action for the disposal or storage of any pesticide or device. Any pesticide or device affected by the order shall not be offered for sale, distribution or use until the conditions specified in the order have been met or amended and the order lifted by the Department, the Illinois Department of Agriculture or USEPA.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART II: GROUNDWATER PROTECTION

## Section 830.1000 Scope and Applicability

- a) This Subpart shall apply to commercial structural pest control business locations that have certified their intent in writing to the Department to be subject to the provisions of Section 14.6 of the Environmental Protection Act [415 ILCS 5/14.6] for regulation by the Department in accordance with this Part, and that have pesticide storage units meeting the following specifications:

- A storage unit located within a potable water supply well setback zone;
- An existing storage unit located within a community water supply wellhead or recharge area not to exceed 2,500 feet from the wellhead or recharge area;
- A new storage unit located within a community water supply well regulated recharge area, unless prohibited by the Illinois Pollution Control Board.
- Commercial structural pest control business locations that have storage units as specified in subsection (a)(1), (2) or (3) of this Section but have not certified their intent in writing to the Department to be subject to the provisions of Section 14.6 of the Environmental Protection Act shall be subject to the provisions of Section 14.4 and 14.5 of the Environmental Protection Act [415 ILCS 5/14.4 and 14.5] and the regulations promulgated by the Illinois

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Pollution Control Board at 35 Ill. Adm. Code 615, 616 and 670 and administered by the Illinois Environmental Protection Agency, or the regulations promulgated by the Illinois Department of Agriculture at 8 Ill. Adm. Code 257.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 830.1100 Protection of Potable Water Supplies

- a) In accordance with Section 14.2(d) of the Environmental Protection Act, the storage of pesticides for commercial structural pest control is prohibited within 100 feet of an existing or permitted potable water well which is classified as a community water system deriving water from an unconfined shallow fractured or highly permeable bedrock formation or from an unconsolidated and unconfined sand and gravel formation, or, in all other instances, within 200 feet of any other existing or permitted potable water supply well unless:
  - 1) the owner of the storage unit has obtained a waiver from the owner of each affected potable water supply well and concurrence from the Illinois Environmental Protection Agency in accordance with Section 14.2(d) of the Environmental Protection Act; and
  - 2) the owner of the pesticide storage unit is also the owner of the affected private water supply well and has notified the Illinois Environmental Protection Agency in accordance with Section 14.2(b) of the Environmental Protection Act, in which case the prohibited distance is 75 feet;
  - 3) the owner has obtained an exception from the Illinois Pollution Control Board in accordance with Section 14.2(c) of the Environmental Protection Act;
  - 4) the owner establishes minimal hazard certification eligibility with the Illinois Environmental Protection Agency in accordance with Sections 14.2(d) and 14.5 of the Environmental Protection Act for provision to locate a storage unit outside of the 200 feet buffer zone to locate a storage unit outside of a community water well;
  - 5) the storage unit located within the well setback zone was in existence prior to July 1, 1988.
- b) Owners of commercial structural pest control locations which store pesticides for commercial application purposes in storage units which meet the allowable criteria for storage within the minimum setback zones as identified in subsection (a) of this Section and as specified in Section 830.1000(a) shall store pesticides in accordance with the requirements of Subpart d of this Part and the following:
  - 1) Prior to storing pesticides in accordance with this subsection (b), the owner shall provide the Department with a copy of any waiver, exception, notification response and/or eligibility obtained from all affected well owners, the Illinois

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Environmental Protection Agency and/or the Illinois Pollution Control Board, which authorizes storage within the minimum setback zones.

- 2) No more than 100 gallons of pesticides (liquid concentrates and diluted materials) shall be stored at a structural pest control location at any given time.
- 3) Secondary containment of all liquid pesticides shall be provided as follows:
  - a) The containment structure shall have a minimum containment volume of 125% of the pesticide in the largest container;
  - b) The containment structure shall be constructed of an impervious material such as sealed concrete, steel or synthetic liners. A minimum four-inch curb or other flow diverting structure or system shall be utilized to prevent spilled materials from leaving the containment structure. There shall be no discharge outlets, drains or other penetrations through the floor or walls of the containment structure;
  - c) All containment materials shall be compatible with the products being stored and shall be capable of being decontaminated. Spills must be removed from the containment area in a timely manner to prevent harm to human health; and
  - d) The containment structure shall be constructed of materials from the containment area. The migration of the materials shall ensure that monthly inspections of all pesticide containers and secondary containment structures are conducted. Any cracks, leaks or deterioration in the containment structure or pesticide containers shall be immediately repaired or replaced with compatible materials. A written record of all inspections and maintenance performed under this subsection (b)(4) shall be kept in the storage unit. Records shall be available for inspection upon Department request.
- 5) The owner shall ensure proper management of all pesticide containers:
  - a) Containers shall not be opened, handled or stored in a manner which may cause the container to be ruptured or to leak;
  - b) Containers shall not be stacked more than two high on pallets;
  - c) Drip and catch pans filled with absorbent material shall be provided under all pumps and valves connected to any pesticide container and shall be replaced whenever they lose their absorbent capacity;
  - d) Empty containers shall be disposed of or utilized in a manner that is in compliance with State and Federal laws and regulations.
  - e) At the time of closure or discontinuance of operation, all pesticide products and empty containers shall be removed from

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the storage area and disposed of or utilized in a manner that is in compliance with State and federal laws and regulations. In addition, all contaminated containment components, soils, structures and equipment shall be decontaminated or removed and disposed of in a manner that is in compliance with State and federal laws and regulations. Within 60 days after the completion of the closure activities, the owner shall provide written notification to the Department that all of the prescribed requirements of this subsection (b)(6) have been met.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Electronic Filing of Illinois Individual Income Tax Returns
- 2) Code Citation: 86 Ill. Adm. Code 105
- 3)
 

Section Numbers:	Proposed Action:
105.100	Amendment
105.110	Amendment
105.120	Amendment
105.210	Amendment
105.230	Amendment
105.310	Amendment
105.330	Amendment
105.410	Amendment
105.420	Amendment
105.430	Amendment
105.450	Amendment
105.500	Amendment
105.510	Amendment
105.515	New Section
105.600	Amendment
105.610	New Section
105.620	New Section
105.700	Amendment
105.810	Amendment
105.900	Amendment
- 4) Statutory Authority: 20 ILCS 2505/39C-1a
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is an update of the Department's rules for electronic filing which sets forth new rules concerning direct deposit of income tax refunds into the accounts of taxpayers. This new enhancement of the electronic filing system will allow the Department to increase the speed with which refunds are returned to taxpayers. The rulemaking also contains a number of non-substantive changes such as corrections of typographical errors and updating of mailing addresses.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State mandates.

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- 11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Keith Staats  
Associate Chief Counsel (Income Tax)  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, IL 62794  
(217) 782-7055

- 12) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not for profit corporations affected:** Any small business that is an electronic return originator under the electronic filing program.

B) **Reporting, bookkeeping or other procedures required for compliance:** None

C) **Types of professional skills necessary for compliance:** None

- 13) **Regulatory Agenda on which this rulemaking was summarized:** This rule was not included on either of the 2 most recent regulatory agendas because: At the time the prior Regulatory Agenda was prepared, the Department was involved in discussions with the Comptroller as to whether it would be feasible to implement direct deposit. As these discussions were ongoing, we determined that it would be premature to announce a planned rulemaking because at that time there was no certainty that any such rulemaking would be proposed.

The full text of the Proposed Amendment(s) begins on the next page:

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

## PART 105

## ELECTRONIC FILING OF ILLINOIS INDIVIDUAL INCOME TAX RETURNS

## SUBPART A: ELECTRONIC RETURNS

Composition of an Electronic Return  
Exclusions from Electronic Filing  
Where to Send Electronic Returns

Section  
105.100  
105.110  
105.120

## SUBPART B: ELECTRONIC FILING PARTICIPANTS

Categories of Electronic Filers  
Types of Electronic Filers  
Ways to Participate in Electronic Filing  
Responsibilities of Electronic Filers

Section  
105.200  
105.210  
105.220  
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## SUBPART C: APPLICATIONS

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Where to Apply  
Who Must Apply  
Who Does Not Need to Apply  
EFIN and ETIN Assignments

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## SUBPART D: ACCEPTANCE PROCESS

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Suitability Checks  
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Where to Test  
How to Test  
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SUBPART E: IL-8453 ILLINOIS INDIVIDUAL INCOME TAX  
ELECTRONIC FILING DECLARATION

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105.515 IL-8453 Retaining Program  
105.515 IL-8453 Retention  
105.520 Corrections

SUBPART F: BALANCE DUE RETURNS AND DIRECT DEPOSIT OF REFUNDS

Section  
105.600 Balance Due General Information  
105.610 Direct Deposit General Information  
105.620 Direct Deposit Responsibilities

SUBPART G: INFORMATION ELECTRONIC FILERS MUST PROVIDE TO THE TAXPAYER

Section  
105.700 Information and Material to be Provided to the Taxpayer

SUBPART H: TRANSMISSION PROCEDURES

Section  
105.800 Overview of Transmission Procedures  
105.810 Acknowledgement of Electronic Returns

SUBPART I: ADVERTISING STANDARDS

Section  
105.900 Advertising Restrictions  
105.910 Media Communications  
105.920 Endorsement

SUBPART J: MONITORING AND SUSPENSION

Section  
105.1000 Monitoring  
105.1010 Suspension

AUTHORITY: Implementing and authorized by the Illinois Income Tax Act [35 ILCS 5].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 445, effective January 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 7031, effective May 3, 1993; amended 17 Ill. Reg. 1816, effective October 4, 1993; emergency adopted at 17 Ill. Reg. 1313, effective January 16, 1995; for a maximum of 150 days; amended 17 Ill. Reg. 1313, effective January 16, 1995; amended at 20 Ill. Reg. 105-2001, effective \_\_\_\_\_.

SUBPART A: ELECTRONIC RETURNS

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Section 105.100 Composition of an Electronic Return

a) An electronic return consists of data transmitted to the Department electronically, and paper documents that contain information which cannot be electronically transmitted or are requested for verification; for example, taxpayer signatures and Forms W-2. In total, electronic returns contain the same information as traditionally filed paper documents.

b) The following forms and schedules can be transmitted electronically:

- 1) IL-1040 Illinois Individual Income Tax Return,
- 2) Schedule NR Nonresident and Part-Year Resident Computation of Illinois Tax (Individual),
- 3) W-2G Statement of Gambling Winnings,
- 4) W-2G Statement of Other Income,
- 5) 1099-R Total Distributions from Profit-sharing, Retirement Plans, Individual Retirement Arrangements, Insurance Contracts, Etc.,
- 6) US 1040 or 1040A U.S. Individual Income Tax Return, and
- 7) US Schedule B or Schedule 1 Interest and Dividend Income.

c) The non-electronic portion of the return consists of the following:

- 1) Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration; required for all electronic returns (see Subpart E of this Part),
- 2) Copy 2 of Forms W-2, W-2G or 1099-R that would normally be attached to the front of a paper return. These must be attached to the front of Form IL-8453,
- 3) 1099-R cannot be submitted in lieu of Forms W-2, W-2G, and IL-8453 cannot be submitted in lieu of Forms W-2, W-2G, and IL-8453; substituted support of IL-1040 line entries for other additions or military pay subtraction, and other information documents that are voluntarily being included with the return by the taxpayer as supporting material. These documents must be attached to the back of Form IL-8453, and
- 4) A copy of the paper tax return signed by the paid preparer when the electronic filer transmits a return that was prepared by another tax preparer. This must be attached to the back of the IL-8453.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 105.110 Exclusions from Electronic Filing

The following types of returns are excluded from electronic filing:

- a) Returns from individuals or firms who have not been accepted as electronic return originators or transmitters (see Section 105.2001)
- b) Returns requiring forms or schedules not listed in Section 105.100(b).



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These exclusions can be identified by amounts on the following IL-1040 return lines:

- 1) Other Subtractions
- 2) Credit for Taxes Paid to Other States
- 3) Tax Credits from Schedule 1799-C
- 4) IL-2210 Penalty
- c) Returns that include Internal Revenue Service (IRS) or Illinois forms 4397, or any other substitute wage and tax statement used to verify a return.
- d) Returns that require attachments other than IRS Form 1040 or 1040A.
- e) Page 1, to verify IL-1040 subtractions for federally taxed retirement and Social Security;
- f) Returns that require attachments other than IRS Schedule B or Schedule 1, to verify IL-1040 subtractions for U.S. government obligations;
- g) Fiscal year returns;
- h) Prior year returns;
- i) Amended or corrected returns;
- j) Returns with dollars and cents entries (only whole dollar amounts will be accepted); and
- k) Returns containing more than:
  - 1) 1 Schedule RR
  - 2) 20 W-4s
  - 3) 20 W-2s
  - 4) 10 1099-Rs
  - 5) 30 statements.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.120 Where to Send Electronic Returns

- a) Electronic IL-1040 returns will be transmitted to the communications processor at the Illinois Department of Revenue in Springfield, Illinois. The telephone number will be provided to accepted transmitters.
- b) Forms IL-8453 and attachments for accepted electronic IL-1040 returns must be mailed to:
 

Regular Mail  
Illinois Dept. of Revenue  
Exception Processing Division  
P.O. Box 19479  
Springfield IL 62794-9479

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART B: ELECTRONIC FILING PARTICIPANTS

## Section 105.210 Types of Electronic Filers

- a) An electronic filer is a collective term referencing all participants in the program. An electronic filer can be included in one or more of the categories defined in Section 105.200. The categories are specific to the function(s) performed.
- b) An electronic filer can be one or more of the following business types:
  - 1) Preparer - prepares the return and computes the tax based on the information that the taxpayer provides;
  - 2) Software firm - writes software that it uses or sells for the purpose of formatting electronic returns and/or transmitting them directly to the Department's Department communications processor;
  - 3) Service Bureau - takes tax returns from accepted electronic filers and formats electronic returns, but does not collect returns directly from taxpayers or transmit returns directly to the Department's Department communications processor;
  - 4) Transmitter - provides services for direct transmission to the Department's communications processor; and
  - 5) Electronic Return Collector - takes prepared returns directly from taxpayers for the purpose of having electronic tax returns produced. An electronic return collector may be a for-profit or non-profit organization in the private or public sector that has been approved by the Department to accept and transmit returns to the Department. It must include employees providing the service to their employees or a university providing electronic return collection services to the student body.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.220 Responsibilities of Electronic Filers

- a) All electronic filers must comply with the requirements and specifications set forth in this Part and, if applicable, IL-1346 [see Section 105.400(c)(2)].
- b) Electronic filers can only accept returns for electronic filing directly from the taxpayer, or from other electronic filers who have been accepted by the Department for electronic filing.
- c) Electronic filers who collect and transmit tax returns for electronic filing (electronic return collectors) must treat each such collection (or drop-off point (physical location)) for electronic returns as a separate entity that must submit an application and be accepted as an electronic filer. Each entity will be treated as an electronic return originator and have the same responsibilities.
- d) Electronic filers who charge a fee for the electronic transmission of

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the return must not base the fee on a percentage of the refund amount.

- e) Electronic filers must not charge a separate fee for direct deposit.
- f) Electronic filers must not stockpile returns for electronic transmission prior to receiving official acceptance into the program or at any time while participating in the program.
- g) Electronic filers must submit a revised application to the Department to update the information contained on their most current application (form IR-8633) or information update form (EFS-15) when there are changes such as:
  - 1) the firm name or doing business as (DBA) name(s),
  - 2) any address, telephone or contact representative,
  - 3) the electronic filing functions performed, or
  - 4) the communication's ownership.
- h) Electronic filers must submit all electronic returns as filed in a timely manner. The receipt date of the electronic transmission will constitute the receipt date of the return if it is acknowledged as accepted by the Department. Any return acknowledged as rejected by the Department will be considered not filed. In order to be timely filed, a return must be received by April 15. Any late-filed electronic returns transmitted to the Department must be received prior to midnight on April 22. The Department's communications processor will not accept return transmissions after that time. However, the communications processor will be available for the transmitter to retrieve acknowledgement files through April 29. Any return filed on April 22 and not acknowledged as accepted must be filed on paper.
- i) Electronic filers must immediately contact the Office of Electronic Filing if an acknowledgement has not been available after 36 hours of filing.
- j) Electronic filers cannot recall or intercept electronically filed IR-1040 returns after the returns have been acknowledged as accepted. If the electronic filer or the taxpayer wishes to change any entries after a return has been accepted, a paper amended return, Form IR-1040-X, must be filed with the Department. (Also see 86.11. Adm. Code 100.9400(f)(3). t60-9160(f)(7))
- k) Electronic filers who function as electronic return originators as defined in Section 105.200(a) must:
  - 1) Comply with the procedures for securing Form IR-8453. Taxpayer Declaration, as outlined in Subpart 8 of this Part;
  - 2) Input and transmit the taxpayer's address from Forms W-2, W-20, and 1099-B (or any other transmitted form) if the address is different than the taxpayer's address in the electronic portion of the return (Form IR-1040);
  - 3) Input and transmit the signed Form IR-8453 and non-electronic portion of the electronic IR-1040 returns to the taxpayers and advise them of the information in Subpart G of this Part;
  - 4) Furnish every taxpayer that has a balance due return with Form ITIR-85-B, Payment Voucher;

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- 5) Inform every taxpayer with a balance due return that it is the responsibility of every taxpayer to make full and timely payment of any tax that is due. Failure to make full payment of any tax that is due on or before April 15 will result in the imposition of interest and penalties;
- 6) Retain the following material until December 31 of the filing year, unless otherwise notified by the Department:
  - A) Copies of all the material furnished to the taxpayers;
  - B) A copy of the signed Form IL-8453 and Forms W-2, W-2G, and 1099-R;
  - C) Copies of the electronically transmitted material as defined in Section 105.100(b). These copies may be retained on magnetic media; and
  - D) The acknowledgement and files received from the Department of or from third-party transmitters. These files may be retained on magnetic media.

NOTE: Electronic return originators who are also paid preparers of the electronic tax return must retain materials as required by the Illinois Income Tax Act (ITPA).
- 7) Identify the paid preparer in the appropriate fields of the electronic IL-1040 return, and ensure the paid preparer's signature is included (electronically or with the Form IL-8453).
- k) Electronic filers who function as transmitters as defined in Section 105.100(c) must:
  - 1) Transmit electronic IL-1040 returns and retrieve acknowledgement files in a timely manner. Acknowledgement files will normally be available within 24 hours after transmission. If the acknowledgement files are not retrieved within five days, the Department will contact the transmitter;
  - 2) Match the acknowledgement files to the original transmission files. Returns acknowledged as accepted will be considered filed returns. Returns acknowledged as rejected must be corrected and re-transmitted, if possible. Returns that cannot be re-transmitted must be filed on paper form IL-1040;
  - 3) Contact the Office of Electronic Filing for assistance if returns have been rejected after three attempts, or if acknowledgements are received for returns that were not in the original transmissions;
  - 4) Ensure the security and confidentiality of all transmitted data;
  - 5) Not use software that has a DEPARTMENT ASSIGNED PRODUCTION PASSWORD built into the software;
  - 6) Follow the instructions provided in Subpart H of this Part, Transmission Procedures; and
  - 7) Retain copies of all the acknowledgement files received from the Department. These files are retained on magnetic media. This material would be retained until December 31 of the filing year, unless notified otherwise by the Department.

Transmitters who provide transmission services to other electronic

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filers must also:

- 1) Accept electronic IL-1040 returns for transmission to the Department's Department communications processor only from electronic filers accepted in the Illinois program; and
- 2) Provide each of their clients with the acknowledgement files for their transmitted returns within 24 hours after receipt of the acknowledgements from the Department. Failure to comply could lead to suspension from the program (see Section 105.1010).
- m) Electronic filers who function as software developers as defined in Section 105.200(c) must:
  - 1) Correct software errors that cause electronic returns to be rejected. Correct these errors quickly to ensure the timely transmission of electronic returns;
  - 2) Expediently distribute corrections to all electronic filers utilizing these products; and
  - 3) Distribute the software products will be used for transmitting by multiple electronic filers at the same time. Their software has the capability of combining returns from these electronic filers into one Department transmission file, taking into account the Declaration Control Number assignments and requirements specified in Section 105.510, and
  - 4) Not incorporate into its software a Department assigned production password.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.310 Where to Apply

Applications and update forms should be sent to:

Illinois Dept. of Revenue  
Central Registration Division  
P.O. Box 19030  
Springfield IL 62794- 9030

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: ACCEPTANCE PROCESS

## Section 105.400 General Information

- a) Acceptance to participate in the program will be granted to qualifying applicants by the Department. Applicants will be notified of acceptance or denial after processing of the application or update form is completed (see Section 105.410).
- b) Acceptance of a software firm or transmitter also requires passing the

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Illinois Participant Acceptance Testing System (IPATS) (see Section 105.450).

- c) Software developers and transmitters will be mailed the following booklets publications:
  - 1) Booklet Publication IL-1345, Illinois Department of Revenue Procedure for Electronic Filing of Individual Income Tax Returns;
  - 2) Booklet Publication IL-1346, Illinois Department of Revenue Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns; and
  - 3) Booklet Publication IL-1347, Illinois Department of Revenue Electronic Filing Test Package.
- d) Applicants who function solely as electronic return originators will receive Booklet Publication IL-1345.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.410 Suitability Checks

- a) Suitability checks will be performed on all applicants.
- b) The Department will complete the suitability check as soon as possible. Until an applicant passes suitability, returns cannot be transmitted.
- c) If an applicant is denied, the Department will send a letter explaining the reasons for denial. If an applicant who was denied attempts to transmit returns, all returns will be rejected.
- d) Listed below are some reasons that an applicant may be denied acceptance into the program:
  - 1) Failure to pass the IRS suitability checks;
  - 2) Failure to submit accurate and timely tax returns, both business and personal file accurate and timely tax returns, both business and personal file accurate and timely tax returns, both business and personal file accurate and timely tax returns;
  - 3) Failure to pay any State of Illinois personal or business tax liability, penalty, or interest; and
  - 4) Material misrepresentation on any application.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.420 Who Must Test

- a) All software developers whose software formats tax returns, or transmits return information directly to the Department's Department communications processor, must pass the IPATS test. (See Section 105.450.)
- b) All electronic filers who transmit directly to the Department must successfully complete the IPATS test. The Department will notify filers of the results of their test. Filers who fail the test may cause transmission problems. This also ensures that electronic filers purchasing

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accepted software are able to use it to transmit test returns prior to transmitting production returns.

c) Applicants who function solely as electronic return originators and will not transmit directly to the Department do not need to test.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.430 What Must Be Tested

- a) The Department will provide the Booklet, Publication IL-1347, Illinois Department of Revenue Electronic Filing Test Package, to all applicants who are required to test. The test package contains income tax situations which provide Illinois schedules, forms and IL-1040 information. All calculations and forms must be completed, formatted, and transmitted to the Department.
- b) Applicants must use this test package and must be tested on all forms and schedules. They must successfully complete two separate test transmissions of these forms before they are accepted into the program.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.450 How to Test

IPATS is a five-step process for software developers and transmitters:

- a) Step 1: Filers must contact the Office of Electronic Filing, 700 North Dearborn Street, Suite 1000, Chicago, IL 60610, for a test package using their electronic filing software.
- b) Step 2: Filers must transmit the test returns from the IL-1347 test package using their electronic filing software.
- c) Step 3: When the transmitter has received acknowledgement files containing no rejected returns, contact the Office of Electronic Filing, 700 North Dearborn Street, Suite 1000, Chicago, IL 60610, for a test package using their electronic filing software.
- d) Step 4: The Department will review these successful test transmissions and provide feedback to the contact person.
- e) Step 5: The Department will notify transmitters if any additional errors are encountered.
- f) The transmitter, when not the software developer, must advise the software developer of the errors and the software developer must correct the errors. Transmitters will re-transmit affected returns to the Department after software corrections are made.
- g) Transmitters who have multiple clients testing through them should expedite the distribution of software updates to avoid recurrence of the same problem or error.
- h) Step 6: The Department will notify filers when they have passed the IPATS test.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART E: IL-8453 ILLINOIS INDIVIDUAL INCOME TAX  
ELECTRONIC FILING DECLARATION

## Section 105.500 Purpose

- a) Form IL-8453 is the signature portion of the return. It must be completed and signed by all appropriate parties before the return is transmitted electronically. Form IL-8453 serves the following purposes:
- 1) Substantiates the return;
  - 2) Serves as a transmittal for the associated non-electronic documents that will be stapled to the declaration and sent to the Department. Section 105.100(c) lists documents and forms to be attached to Form IL-8453;
  - 3) Authorizes the electronic return originator to file the return electronically on behalf of the taxpayer; and
  - 4) Provides the taxpayer's written authorization to have the refund directly deposited as designated on the form.
- b) Authorizes the Department to inform the electronic return originator, or the transmitter, that the taxpayer's return has been accepted or rejected. When rejected, authorizes the Department to identify the reasons for rejection.
- c) Form IL-8453 does not constitute a return, as a substitute for the information required on the electronic tax return.
- d) Form IL-8453 cannot be used to submit forms or schedules which are not listed in Section 105.100. Returns requiring forms that are excluded from electronic filing must be filed on a paper Form IL-1040.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.510 Instructions

- a) Sequence of events and general information
- 1) An electronic return originator prepares the return, computes the tax based on the information the taxpayer provides, and accepts the return for filing. The purpose of electronic filing is to collect the refund or pay the tax due to the Department of Revenue.
  - 2) After the return has been prepared and before the return is transmitted electronically, the taxpayer must verify the information in the electronic portion of the return. In addition, the taxpayer must verify the information on Form IL-8453, including the routing transit and account numbers if direct deposit is authorized, and sign the Form IL-8453. Both signatures are required on a joint return. A file copy of the prepared return must be provided to the taxpayer at the time of

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the signature. The copy should be retained by the taxpayer, and not be forwarded to the Department.

- 3) Practitioners are prohibited from allowing taxpayers to sign a blank tax return. A blank Form IL-8453 is the same as a blank tax return; therefore, electronic return originators are also prohibited from allowing taxpayers to sign a blank IL-8453.
- 4) After Form IL-8453 has been completed and signed by the taxpayer, the electronic return originator, and preparer (if applicable), the electronic return originator must submit the return to the Department in accordance with the file specifications in the IL-1346.
- 5) By transmitting the electronic portion of the return, the electronic filer is confirming that the IL-8453 has been accurately completed and signed.
- 6) Electronic filers must mail IL-8453s within 24 hours after receipt of acknowledgment that the corresponding returns were accepted unless otherwise authorized by Section 105.515.
- 7) Beginning on the first day of the electronic filing season, and daily thereafter throughout the filing period, the electronic return originator will mail IL-8453s to the Department unless otherwise authorized by Section 105.515. The electronic return originator must retain a copy of each return until the returns have been acknowledged as accepted by the Department.
- 8) If a return is acknowledged as rejected, the IL-8453 must be held until the return is successfully re-transmitted. If the return cannot be re-transmitted, the IL-8453 should be destroyed and any withholding forms should be retained to attach to a paper Form IL-1040.
- 9) Receipt of IL-8453s will be closely monitored by the Department. If an IL-8453 is missing 15 days after receipt of the electronic IL-1040 return, the electronic return originator will be contacted. If the electronic return originator does not provide the Department with a Form IL-8453 that includes the taxpayer's original signature and withholding forms within 15 days after the electronic return originator is contacted, the return will be suspended from the program.

NOTE: If excessive contacts with the ERO are required to obtain missing Forms IL-8453, the ERO may be subject to suspension from the Illinois electronic filing program.

- b) Completing and mailing Form IL-8453
  - 1) The Declaration Control Number (DCN) is a 14-position serial number assigned to each electronic return. The DCN must be clearly printed or typed (one position per box) in the spaces provided at the top of each Form IL-8453. The DCN must match the DCN of the accepted electronic return.
  - 2) If the taxpayer received a mailing label from the Department, affix it to the name and address area of Form IL-8453. Mark through any errors on the label and print the correct information

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on the label. Otherwise, type or print the taxpayer's name, address, and social security number in spaces provided on the form. The Form IL-8453 name, address, and Social Security number must be the same as the name, address, and Social Security number on the electronic IL-1040 return.

- 3) Tax Return Information must be completed. Enter only whole dollar amounts. These amounts must match the corresponding entries on the electronic IL-1040 return.

- 4) If the taxpayer authorizes to have the refund directly deposited, direct deposit information on Form IL-8453 must be completed. The direct deposit information transmitted in the electronic IL-1040.

- 54) The Declaration and Signature of Taxpayer must contain the taxpayer's original signature(s). Electronic return originators must obtain the signature(s) from their clients prior to transmitting the electronic return to the Department. The electronic return originator will be contacted for missing taxpayer signatures. If an IL-8453 providing original taxpayer signature(s) is not received within 15 days after the electronic return originator is contacted, the taxpayer will be notified.

NOTE: If excessive contacts with the ERO are required, the ERO may be suspended from the program.

- 55) Signature and Signature of Electronic Return Originator and Signature of Preparer must be completed and signed by the electronic return originator and the paid preparer. When the electronic return originator and the paid preparer, the taxpayer, entity, the paid preparer box must also be checked. When the electronic return originator and the paid preparer are different, a copy of the IL-1040, signed by the preparer, must be attached to the IL-8453. A collector who is not the preparer of the return but collected the return for electronic filing (transmission) purposes must sign for the electronic filing originator and date the declaration, enter the firm's name and address, enter the firm's EIN, and provide the firm's telephone number. There is no requirement to provide a Social Security number in this case. 1099-R must be attached to the front of the Form W-2.

- 76) Pursuant to Public Act 95-1, the electronic return originator must be contacted if these forms are missing. If the taxpayer's Form IL-8453 (bottom, left) is missing, the taxpayer must be contacted providing the withholding forms (originals or copies) is not received by the Department within 14 days after the electronic return originator is contacted, the taxpayer will be notified. IRS or Illinois forms 4852, or any other substitute wage and tax statement, cannot be attached to the IL-8453 (or submitted later) in lieu of Forms W-2, W-2G, or 1099-R. (See Section 105.110(c), Exclusions from Electronic Filing.)

NOTE: If excessive contacts with the ERO are required to obtain



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missing withholding forms, the ERO may be subject to suspension from the Illinois electronic filing program.

g) The IL-8453s should be secured by paper clip, rubber band, or string in quantities of 100 or less. They should be in ascending order by DCR. Each IL-8453 should consist of the non-electronic portion and the electronic portion as detailed in Section 105-100(c).

Composition of an Electronic Return should be as follows:  
98) Mail in either envelopes or cartons to one of the addresses listed below:

Regular Mail  
or  
Illinois Dept. of Revenue  
Exceptions Processing Division  
Exception Mail Code 2-221  
101 W. Jefferson St.  
Springfield, IL 62794-9479

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.515 IL-8453 Retaining Program

a) Electronic filers who function as electronic return originators (EROs) as defined in Section 105.200(a) may be authorized by the Department to participate in the IL-8453 retaining program. Participation in the program allows authorized EROs to maintain Forms IL-8453 and associated documents, rather than submitting them to the Department. Selected Forms IL-8453 may be periodically requested in writing by the Department from participating EROs for monitoring purposes.

b) EROs participating in the IL-8453 retaining program will be notified in writing by the Department each electronic filing season. Participating EROs must:

1) Continue to accurately complete Forms IL-8453 according to Section 105.300(b)(4) and associated documents and instructions. At the time of production for Department review without prior notice, production for Department review without prior notice.  
2) Submit selected Forms IL-8453 and associated documents as requested in writing by the Department. The Department's written request will provide the ERO special mailing instructions for submission of requested forms.

c) Authorization to participate in the IL-8453 retaining program may be rescinded at any time if the ERO fails to provide requested Forms IL-8453, or if review of the forms provided reveals that the ERO is not in compliance with the requirements set forth in this Part. If an ERO's authorization to participate is rescinded, the ERO will be required to submit all Forms IL-8453 retained up to the time of notification that they will no longer be allowed to participate, and all future Forms IL-8453.

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(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: BALANCE DUE RETURNS AND DIRECT DEPOSIT OF REFUNDS

## Section 105.600 Balance Due General Information

a) The taxpayer is responsible for submitting payment of any balance due the Department. Electronic return originators must provide the taxpayer with Payment Voucher Form ITR-85-E, at the time the taxpayer signs the IL-8453 for the balance due return.

b) Electronic return originators must inform taxpayers with balance due returns that payment of taxes due must be made to the Department no later than April 15 of the filing tax year. Failure to make full payment by this date will result in the imposition of interest and penalties.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 105.610 Direct Deposit General Information

a) Qualifying taxpayers may authorize their tax overpayments to be directly deposited into their savings or checking accounts with financial institutions, rather than receive paper refund checks. The authorization must be made by providing the appropriate information in the electronically filed IL-1040 return and on Form IL-8453.

b) The Department will ordinarily process an authorization for direct deposit, but reserves the right to initiate a paper refund check. The following conditions may cause the Department to not process a direct deposit:

1) Taxpayer owes back taxes, either individual or business (refund offset);  
2) Taxpayer has certain State or Federal delinquent debt, such as child support, student loans, etc. (refund offset);  
3) Estimated tax payments reported on the return do not match the estimated tax payments recorded on the Department's master file;  
4) Taxpayer is claiming an unallowable or improperly supported deduction or credit; and  
5) An electronic return is accepted with a valid Social Security number that belongs to another taxpayer.

c) The Department is not responsible for the misapplication of a direct deposit that is caused by error, negligence, or malfeasance on any part of the taxpayer, electronic filer, financial institution, or any of their agents.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 105.620 Direct Deposit Responsibilities

Electronic filers who function as electronic return originators as defined in Section 105.200(a) must:

- a) Assume that the taxpayer is aware of all the general information regarding a direct deposit;
- b) Not charge a separate fee for direct deposit;
- c) Accept any direct deposit authorization to any eligible financial institution designated by the taxpayer, for the purpose of direct deposit of tax refunds, eligible financial institution is defined as a state or national bank, savings and loan association, mutual savings bank, or credit union that accepts direct deposits (sometimes called electronic funds transfers). "State" includes all states in the United States and their political subdivisions, and the District of Columbia;
- d) Assume that the taxpayer qualifies for direct deposit; to qualify for direct deposit, the taxpayer must:
  - 1) Have the return electronically filed by an electronic return originator who is accepted in the Illinois program; and
  - 2) Provide to the electronic return originator proof of account from the financial institution. The account specified to receive the direct deposit must be in the taxpayer's name;
- e) Obtain proof of account from the taxpayer. Acceptable proof of account is a check (a photocopy is acceptable) or a form, report or statement generated by the financial institution. A deposit slip is not an acceptable proof of account. The proof of account document must contain the following preprinted information:
  - 1) Account name (name as on the account in the records of the financial institution);
  - 2) Account number;
  - 3) Name of financial institution or branch name; and
  - 4) Amount of direct deposit.

- f) Verify that the taxpayer's direct deposit information on Form IL-8453 is correct, and that the information entered is the information that is transmitted in the electronically filed IL-1040; and
- g) Caution the taxpayer that once the electronic return has been acknowledged as accepted by the Department, the direct deposit authorization cannot be rescinded, nor can changes be made to the routing transit number of the financial institution or the taxpayer's account number.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## SUBPART G: INFORMATION ELECTRONIC FILERS MUST PROVIDE TO THE TAXPAYER

## Section 105.700 Information and Material to be Provided to the Taxpayer

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- a) The electronic return originator must furnish the taxpayer with a copy of the electronic material described in Section 105.100(b). This information can be on copies of official Department forms or on forms designed by the electronic filer. If the latter, data entries must refer to the line numbers on official Department forms. This material should be provided to the taxpayer at the time the taxpayer signs the Form IL-8453.

- b) The electronic return originator must also provide the taxpayer with a copy of the entire non-electronic portion of the return.

- c) In addition, the electronic return originator should advise the taxpayer to retain copies of the following materials:

- 1) Any copy of Forms W-2, W-2G, or 1099-R;
  - 2) Any other documents that are not required by the Department, but are voluntarily being included with the return by the taxpayer as supporting material; and
  - 3) Copy of the acknowledgment Form IL-8453.
- Electronic returns should advise taxpayers that their electronic returns will be processed by the Department and the taxpayer's copy should not be forwarded to the Department. However, amended returns, if needed, must be filed as paper returns and mailed to the Department.
- e) If a return is rejected and cannot be successfully re-transmitted, the electronic return originator must immediately advise the taxpayer that the return was not electronically filed and the taxpayer must file a paper IL-1040 return.
  - f) The electronic return originator should advise the taxpayer to wait six to eight weeks from the acknowledgement date before making an official inquiry about his refund. After this time has elapsed, the taxpayer can contact the Department's Taxpayer Assistance Office. Taxpayers generally contact the Department if they have not received their refund within eight weeks. The taxpayer may be asked for the return and the return date the Department acknowledged the return. If the taxpayer does not have the return, the originator must, upon request, provide the taxpayer with this information.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## SUBPART H: TRANSMISSION PROCEDURES

## Section 105.810 Acknowledgement of Electronic Returns

- a) Each file of electronic returns transmitted to the Department will normally be acknowledged within 24 hours after of receipt.

- b) The acknowledgement file identifies which returns have been accepted or rejected. The acknowledgement file must be retrieved within five days. If they are not, the Department will contact the transmitter.
- c) If the acknowledgement file is not available within 36 hours, or if

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- acknowledgments are received for returns that were not transmitted within the designated transmission, immediately contact the Department's Office of Electronic Filing for assistance.
- (d) If the filer's return should match the acknowledgment file back to the original file transmitted, the filer should not retransmit the return.
- NOTE: Any transmitted electronic return that is acknowledged as rejected by the Department will not be considered a filed return.
- (d) The acknowledgment-file-identifies-which-returns-have-been-accepted or-rejected--The-acknowledgment-files-must-be-retrieved-within-five days--if they are not by the Department will contact the transmitter.
- (e) When a return has been rejected after three attempts, contact the Department Office of Electronic Filing and assistance will be provided.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART II: ADVERTISING STANDARDS

## Section 105.900 Advertising Restrictions

- a) Participants in the program agree to comply with the advertising and solicitation provisions of 31 CFR, Part 10 (Treasury Department Circular No. 230) (1997). This circular prohibits the use in any way, or participation in the use, of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. The prohibition includes, but is not limited to, statements pertaining to the quality of the product or service offered unless subject to fact verification, claims of specialized expertise over the electronic filer, and statements or having jurisdiction over the electronic filer, and statements or suggestions that the ingenuity and/or prior record of an electronic filer rather than the merit of the matter are principal factors likely to determine the result of the matter. In addition, advertising must not imply a special relationship with the Department.

NOTE: Use of the Department's name, "Illinois Department of Revenue" or "Department", within a firm's name can result in immediate suspension from the program.

- b) The use of improper and/or misleading advertising in relation to the program is grounds for suspension.
- c) The Department will monitor advertising and practices of electronic filers. Consistency with the Department's requirements as stated in this Section.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of Part: Riverboat Gambling
- 2) Code Citation: 96 Ill. Adm. Code 3000
- 3) Section Numbers: Adopted Action:  
3000.240 Amend  
3000.241 New  
3000.242 New  
3000.243 New
- 4) Statutory Authority: Riverboat Gambling Act, 230 ILCS 10
- 5) Effective Date of Amendments: October 31, 1996
- 6) Does this rulemaking contain an automatic renewal date? No.
- 7) Does this rulemaking contain incorporations by reference? This amendment does not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: October 30, 1996
- 9) Notice of Proposal Published in Illinois Register: June 14, 1996, 20 Ill. Reg. 7734
- 10) Has JCAR issued a Statement of Objections to these rules? No.
- 11) Differences between proposal and final version: Editing and technical changes were made in accordance with suggestions by the Administrative Code Council. The amendments were made by the agency pursuant to agreement with JCAR and public comment.
- Section 3000.240(h)(2)(A)(iii) was amended by changing "Any and all fees received and the basis for the calculation of the fees received" to read "Any and all fees received from management agreements or consulting services with holders of Illinois owner licenses, and the basis for the calculation of fees received"; and
- Section 3000.241(b)(5) was amended by inserting between "appropriate" and the period the words "and necessary to maintain public confidence in the credibility and integrity of gambling operations, as required by Section 2(b) of the Act"; and
- Section 3000.241(e)(3) was amended to change "reason(s)" to "reasons"; and
- Section 3000.243 was amended at the end of the last sentence by inserting between "circumstances" and the period the words "and necessary to maintain public confidence in the credibility and integrity of gambling

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operations, as required by Section 2(b) of the Act\*.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will these amendments replace an emergency amendment currently in effect? Yes.

14) Are there any amendments pending on this Part? Yes.

Section Numbers	Proposed Action	Illinois Register Citation
3000.100	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.101	New	August 9, 1996; 20 Ill. Reg. 10439
3000.103	New	August 9, 1996; 20 Ill. Reg. 10439
3000.104	New	August 9, 1996; 20 Ill. Reg. 10439
3000.105	New	August 9, 1996; 20 Ill. Reg. 10439
3000.110	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.120	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.140	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.160	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.180	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.231	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.234	New	August 9, 1996; 20 Ill. Reg. 10439
3000.245	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.271	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.270	New	August 9, 1996; 20 Ill. Reg. 10439
3000.280	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.281	Repealed	August 9, 1996; 20 Ill. Reg. 10439
3000.282	Repealed	August 9, 1996; 20 Ill. Reg. 10439
3000.283	Repealed	August 9, 1996; 20 Ill. Reg. 10439
3000.284	New	August 9, 1996; 20 Ill. Reg. 10439
3000.285	New	August 9, 1996; 20 Ill. Reg. 10439
3000.286	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.405	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.415	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.420	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.424	New	August 9, 1996; 20 Ill. Reg. 10439
3000.600	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.602	New	August 9, 1996; 20 Ill. Reg. 10439
3000.603	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.605	New	August 9, 1996; 20 Ill. Reg. 10439
3000.606	New	August 9, 1996; 20 Ill. Reg. 10439
3000.625	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.630	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.630	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.635	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.640	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.650	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.655	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.665	New	August 9, 1996; 20 Ill. Reg. 10439
3000.666	New	August 9, 1996; 20 Ill. Reg. 10439
3000.670	Amendment	August 9, 1996; 20 Ill. Reg. 10439

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3000.720	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.725	New	August 9, 1996; 20 Ill. Reg. 10439
3000.800	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.810	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.830	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.840	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.900	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.910	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1020	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1030	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1040	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1050	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1070	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1071	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1072	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1110	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1115	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1120	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1126	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1130	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1135	Amendment	August 9, 1996; 20 Ill. Reg. 10439
3000.1139	New	August 9, 1996; 20 Ill. Reg. 10439
3000.1155	Amendment	August 9, 1996; 20 Ill. Reg. 10439

15) **Summary and Purpose of Amendments:** The amendments will replace emergency rules. These amendments allow more strict regulation of licensed suppliers. The amendments specify that cases of bankruptcy, liquidation, reorganization, substantial change in ownership or control, or other event that affects the character, reputation or financial integrity of a licensed supplier, the quality of its product, may result in suspension, revocation or suspension of the license of the supplier. The amendments require a licensed supplier to provide the Board with written notice of changes to the list of gambling equipment and supplies the supplier is authorized to sell or lease, and a procedure is established for Board denial of such changes. The amendments specify requirements for the initial one year supplier license and subsequent four year renewals, subject to certain requirements, including annual payment of the license fee, and other restrictions and conditions imposed by the Board.

16) **Information and questions regarding these adopted amendments shall be directed to:**

Mareille B. Cusack  
Chief Counsel  
Illinois Gaming Board  
160 N. LaSalle, Suite 3005  
Chicago, Illinois 60601  
(312)791-4700; FAX (312)814-4602

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The full text of the adopted amendments begins on the next page:

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TITLE 86: REVENUE

CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000

RIVERBOAT GAMBLING

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3000.350	Modifications (Repealed)

  

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3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual Audits and Other Reporting Requirements
3000.1040	Accounting Controls Within the Casino's Cage
3000.1050	Accounting for Exchange of Chips Submitted by Gaming Patrons and Gaming Credit
3000.1060	Handling of Cash at Gaming Tables
3000.1070	Tips or Gratuities

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Deposits of Admission Tax and Wagering Tax  
Cash Reserve Requirements

## SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section  
3000.1071 Coverage of Subpart  
3000.1100 Duty to Maintain Suitability  
3000.1105 Board Action Against License or Licensee  
3000.1110 Complaint  
3000.1115 Appearances  
3000.1120 Appearances  
3000.1125 Appointment of Hearing Officer  
3000.1130 Discovery  
3000.1135 Motions for Summary Disposition  
3000.1140 Proceedings  
3000.1145 Evidence  
3000.1146 Prohibition of Ex Parte Communication  
3000.1150 Sanctions and Penalties  
3000.1155 Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 100].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for 150 days; adopted at 15 Ill. Reg. 13263, effective August 5, 1991, for 150 days; amended at 15 Ill. Reg. 13119, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1995, amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective May 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 5, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective

06T-01-1096

## SUBPART B: LICENSES

## Section 3000.240 Supplier's Licenses

## a) Initial Licensing

1) Term of License. An Initial Supplier's License issued by the Board shall be for a term of one year. After the expiration of the term of the license, the licensee may apply for a renewal of the license. The licensee shall apply for a renewal of the license by filing an application with the Board. The application shall be subject to the following procedures prior to licensing:

- 1) Application;  
2) Investigation of the applicant;  
3) Action of the Board; and

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Deposits of Admission Tax and Wagering Tax  
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## SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section  
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3000.1146 Prohibition of Ex Parte Communication  
3000.1150 Sanctions and Penalties  
3000.1155 Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 100].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for 150 days; adopted at 15 Ill. Reg. 13263, effective August 5, 1991, for 150 days; amended at 15 Ill. Reg. 13119, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1995, amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective May 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 5, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective

06T-01-1096

## SUBPART B: LICENSES

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- 1) Application;  
2) Investigation of the applicant;  
3) Action of the Board; and

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## following information:

- i) Any and all past or pending disciplinary actions taken against the licensee in any other jurisdictions;
  - ii) Any and all equipment, devices and supplies offered for sale or lease in connection with Games authorized under the Act and this Part;
  - iii) Any and all fees received from management agreements or consulting services with holders of Illinois owner licenses, and the basis for the calculation of fees received;
  - iv) The most recent year end financial statements, and the most recent Form 10K and 10Q filings with the Securities and Exchange Commission by the licensee and its parent company if they are publicly held corporations;
  - v) An organizational chart of the licensee showing parent and subsidiary entities in relation to the licensee, including a separate listing of all key persons of the licensee;
  - vi) A list of revenues derived from Illinois sales and/or leases during the previous licensing period, categorized according to date and owner licensee;
  - vii) Disclosure of any past or pending material litigation;
  - viii) Any specific plans for changes in the financial ownership or organization of the licensee entity; and
  - ix) An affidavit certifying the licensee is in compliance with required payment of all applicable federal and State taxes.
- b) The holder of a Supplier's License shall make such annual submissions to the Board upon initial licensing and every year during a renewal licensing period, including restricted license renewal periods.
- (Source: Amended 20 Ill. Reg. 14765, effective OCT 31 1995)

## Section 3000.241 Renewal of Supplier's License

- a) Renewal Requirements  
Except as provided in subsection (d), upon the expiration of an initial Supplier's license issued pursuant to Section 3000.240, the license may be renewed subject to the provisions of the Act and this Section 3000.241 for a license period of four years. The renewal requirements shall include, but not be limited to, the following:
  - i) Every fourth year following the initial licensing, the licensee shall provide documentation of the following in lieu of a renewal application:
    - a) A written statement requesting renewal of the Supplier's

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## Licensee:

- B) A written statement verifying past compliance with the annual disclosure affidavit required under Section 3000.240(h)(2)(A);
  - C) Measures taken by the licensee to assure compliance with the Act and rules promulgated thereunder; and
  - D) Responses to specific questions of concerns raised by the Board in its reliance investigation and review process.
- 2) In addition to the information submitted by the licensee pursuant to subsection (a)(1), key persons who have previously filed to Personal Disclosure forms shall submit affidavits attesting to the veracity of all previously submitted materials and setting forth any information which is different from that which has been previously submitted.
- 3) Materials submitted pursuant to this Section shall be provided at the licensee's expense to the Board, and must be accompanied by the required annual licensing fee, and must be submitted to the Board by the licensee.
- 4) Nothing in this Section shall be interpreted to alter the duty to comply with the annual disclosure and fee requirements as set forth in Section 3000.240 or to disclose changes in information as set forth in Section 3000.140.
- b) Board Decision  
The Board shall base its renewal of a Supplier's License upon:
  - 1) The timeliness and reasonableness of the information submitted by the licensee as required pursuant to this Section 3000.241;
  - 2) The background, reputation, character and integrity of the key persons;
  - 3) The licensee's continuing ability to maintain the quality of its products or services;
  - 4) The overall adherence of the licensee to all requirements of the Act and the rules promulgated thereunder; and
  - 5) The licensee's ability to maintain adequate and necessary controls to ensure public confidence, the credibility and integrity of gambling operations, as required by Section 2(b) of the Act.
- c) Term of Renewed Licenses  
Unless otherwise restricted pursuant to subsection (d) of this Section, renewed licenses shall be issued for a term of four years.
- d) Licenses Restricted on Renewal  
  - 1) Upon issuing a renewal license, the Board may restrict the term of or impose conditions upon a license.
  - 2) A restricted license may be issued on renewal in the event the Board has concerns regarding:
    - A) The nature or quality of a product provided by the licensee in Illinois;
    - B) The business experience or background of the licensee's key persons;
    - C) The business practices in Illinois and other jurisdictions of the licensee, its key persons or an person who directly

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- or indirectly controls the licensee;
- D) The licensee's reputation;
  - E) The licensee's failure to comply with the Act and this Part;
  - F) The term of a license restricted on renewal shall be for one year from the date of issuance.
  - G) If, at the conclusion of the one year period for licenses restricted on renewal, the Board deems that the licensee has addressed and rectified the Board's concerns, the Board may issue our year renewal licenses.
  - H) If the Board deems that the licensee has not properly address and rectify the Board's concerns within a one year period may result in the issuance of another license restricted on renewal, the non-renewal of the license or disciplinary action authorized under Section 5 of the Act.

## Action of the Board

- 1) The Board shall act at a public meeting on the renewal of a Supplier's License.
- 2) If the Board decides to deny license renewal, it shall direct the Administrator to issue a Notice of Denial to the Supplier licensed by certified mail or personal delivery.
- 3) If the Board decides to issue a restricted license on renewal, it shall direct the Administrator to issue a Notice of Restricted License by certified mail or personal delivery. Such Notice shall specify the reasons for a restricted license.

## Request for Hearing

- 1) A supplier licensee served with a Notice of Denial may request a hearing in accordance with Section 3000.405.
- 2) A supplier licensee served with a Notice of Restricted License on Renewal may request a hearing in accordance with Section 3000.405.
- 3) If a hearing is not requested, the Notice of Denial or Notice of Restricted License on Renewal becomes the final order of the Board.

(Source: Added at 20 Ill. Reg. 14765, effective  
—OCT 9 1996—)

## Section 3000.242 Amendment to Supplier's Product List

A holder of a Supplier's License shall provide written notice to the Board regarding proposed changes to be made to its list of equipment, devices and supplies offered for sale or lease to Riverboat Gaming Operations. Said changes may be made without leave of the Board unless the Administrator objects to the change within thirty days after receipt of notice. Whereupon leave of the Board is required. If the Board denies the licensee's proposed change in the list of equipment, devices and supplies offered for sale or lease, the licensee may request a hearing in accord with Section 3000.405.

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(Source: Added at 20 Ill. Reg. 14765, effective  
—OCT 9 1996—)

## Section 3000.243 Bankruptcy or Change in Ownership of Supplier

The bankruptcy, liquidation, reorganization or substantial change in ownership or control of a holder of a Supplier's License, which significantly affects the character of the business, the financial integrity of the holder or the creditworthiness of the licensee, at any point in time, may cause the Board to suspend, restrict or revoke the license pursuant to Section 3000.110. The Board may restrict the license by assigning the licensee a restricted license as provided in Section 3000.241 or through such other restrictions as may be appropriate to the circumstances and necessary to maintain public confidence in the credibility and integrity of gambling operations, as required by Section 2(b) of the Act.

(Source: Added at 20 Ill. Reg. 14765, effective  
—OCT 9 1996—)

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Narrative and Planning Policies
- 2) Code Citation: 77 Ill. Adm. Code 1100
- 3) Section Numbers:  
1100.750 Adopted Action:  
Amendments  
1100.760 New Section
- 4) Statutory Authority: Implementing Public Act 89-393, the Alternative Health Care Delivery Act (20 ILCS 3/30(a)(10) and 35(3)) and authorized by the Illinois Health Facilities Planning Act (20 ILCS 3960)
- 5) Effective Date of Rulemaking: November 8, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 1, 1996
- 9) Notice of Proposal Published in Illinois Register: March 15, 1996 at 20 Ill. Reg. 4141
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: Nonsubstantive editing changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement issued by JCAR? The Agency has made all the changes to which it agreed with the Joint Committee.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

Section Numbers	Adopted Action	Illinois Register Citation
1100.110	Amendment	20 Ill. Reg. 9470
1100.510	Amendment	20 Ill. Reg. 9470
1100.520	Amendment	20 Ill. Reg. 9470
1100.530	Amendment	20 Ill. Reg. 9470
1100.660	Amendment	20 Ill. Reg. 9470

- 15) Summary and Purpose of Rulemaking: Section 1100.750, Post-surgical Recovery Care Centers, is being amended to reflect statutory changes to the Alternative Health Care Delivery Act. The amendment will increase the number of post-surgical recovery care centers from eight to twelve.

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Section 1100.760 is being added for the establishment of Children's Respite Care Centers under the provisions of the Alternative Health Care Delivery Act. Under this Section, rules have been developed to address planning areas, development restrictions, bed capacity, occupancy targets and need determination.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Donald Jones  
Health Facilities Planning Board  
Division of Facilities Development  
525 West Jefferson, 2nd Floor  
Springfield, Illinois 62761  
217/782-3516

The full text of the Adopted Amendment begins on the next page:



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## NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER II: HEALTH FACILITIES  
PLANNING BOARD  
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1100

## NARRATIVE AND PLANNING POLICIES

## SUBPART A: GENERAL NARRATIVE

Section	Introduction
1100.10	Authority
1100.20	Purpose
1100.30	Health Maintenance Organizations (Repealed)
1100.40	Subchapter Organization
1100.50	Mandatory Reporting of Data
1100.60	Donation of Facilities
1100.70	Institutional Master Plan Hospitals (Repealed)
1100.80	Public Hearings
1100.90	

## SUBPART B: GENERAL DEFINITIONS

Section	Introduction
1100.210	Definitions
1100.220	

## SUBPART C: PLANNING POLICIES

Section	Need Assessment
1100.310	Staffing
1100.320	Professional Education
1100.330	Public Testimony
1100.340	Multi-Institutional Systems
1100.350	Modern Facilities
1100.360	Occupancy-Utilization Standards
1100.370	Systems Planning
1100.380	Quality
1100.390	Location
1100.400	Needed Facilities
1100.410	Discontinuation
1100.420	Coordination with Other State Agencies
1100.430	

## SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section	Introduction, Formula Components and Planning Area Development
1100.510	

## HEALTH FACILITIES PLANNING BOARD

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1100.520	Medical-Surgical/Pediatric Categories of Service
1100.530	Respiratory Categories of Service
1100.540	Intensive Care Category of Service
1100.550	Comprehensive Physical Rehabilitation Category of Service
1100.560	Acute Mental Illness Categories of Service
1100.570	Substance Abuse Category of Service
1100.580	Neonatal Intensive Care Category of Service
1100.590	Burn Category of Service
1100.600	Therapeutic Radiology Equipment
1100.610	Open Heart Surgery Category of Service
1100.620	Cardiac Catheterization Services
1100.630	Chronic Renal Dialysis Category of Service
1100.640	Non-hospital Based Ambulatory Surgery
1100.650	Computer Systems (Repealed)
1100.660	Genetic Testing Category of Service
1100.670	Specialized Long-Term Care Categories of Service
1100.680	Magnetic Resonance
1100.690	High Linear Energy Transfer (L.E.T.)
1100.700	Positron Emission Tomographic Scanning (P.E.T.)
1100.710	Extracorporeal Shock Wave Lithotripsy
1100.720	Selected Organ Transplantation
1100.730	Kidney Transplantation
1100.740	Subacute Care Hospital Model
1100.750	Post-surgical Recovery Care Center Alternative Health Care Model
1100.760	Children's Respite Care Center Alternative Health Care Model

## APPENDIX A

Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5416, effective April 15, 1983; amended at 8 Ill. Reg. 3531, effective January 19, 1984; amended at 9 Ill. Reg. 15476, amended at 9 Ill. Reg. 3344, effective March 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30,

## HEALTH FACILITIES PLANNING BOARD

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1995; recodified at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective NOV 08 1996.

## SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

## Section 1100.750 Postsurgical Recovery Care Center Alternative Health Care Model

## a) Planning Areas:

- 1) The City of Chicago;
- 2) Cook County outside the City of Chicago;
- 3) Kane, Lake, and McHenry Counties;
- 4) Municipalities with a population greater than 50,000 not located in the areas described in subsections (a)(1), (2), and (3) of this Section. Municipalities means geographic areas designated as Metropolitan Statistical Area by the Bureau of the Census; and
- 5) Rural areas, i.e., all areas exclusive of subsections (a)(1), (2), (3), and (4) of this Section.

## b) Age Groups:

All ages

## c) Development Restrictions:

- 1) No proposed postsurgical recovery care center alternative health care model shall be located in counties with populations greater than 600,000 but less than 1,000,000. (Section 30(a) of the Alternative Health Care Delivery Act (210 ILCS 3/30(a)).
- 2) Proposed postsurgical recovery care center alternative health care models shall be owned or operated by a hospital if it is to be located within, or will primarily serve the residents of, a health service area. (see Section 1100.220 for definition of Health Service Area) in which more than 60% of the gross patient revenue of the hospitals within that health service area are derived from Medicare and Medicaid, according to the most recently available calendar year data from the Illinois Health Care Cost Containment Council. (Section 30(a) of the Alternative Health Care Delivery Act (210 ILCS 3/30(a))) Health Service Areas which exceed this standard are Health Service Areas 5 and 11.
- 3) Restrictions delineated above shall not preclude a hospital and an ambulatory surgical treatment center from forming a joint venture or developing a collaborative agreement to own or operate a postsurgical recovery care center. (Section 30(a) of the Alternative Health Care Delivery Act (210 ILCS 3/30(a)))
- 4) A facility, or portion of a facility, may participate in a health service area if it is located within the health service area, unless the facility has applicant-proposed to locate a postsurgical recovery care center within, or attached to an existing ambulatory-surgical treatment center or hospital--must document that the facility has been licensed as an ambulatory surgical treatment center or hospital for at least two years

## HEALTH FACILITIES PLANNING BOARD

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before August 20, 1993. (Section 35 of the Alternative Health Care Delivery Act (210 ILCS 3/35))

## d) Bed Capacity:

A postsurgical recovery care center shall be no larger than 20 beds. (Section 35 of the Alternative Health Care Delivery Act (210 ILCS 3/35)) Bed capacity within a postsurgical recovery care center shall be inventoried as a separate category of service.

## e) Occupancy Targets:

Beds should have an occupancy of 80% or higher.

## f) Bed Determination:

There shall be no more than a total of twelve eight postsurgical recovery care center alternative health care models in the metropolitan planning area. Locations are as follows:

- 1) Two one in the City of Chicago.
- 2) Two one in Cook County outside the City of Chicago. At least one of these shall be owned or operated by a hospital devoted exclusively to caring for children.
- 3) Two in Kane, Lake and McHenry Counties--one of which--must--be located--in--a--freestanding-ambulatory-surgical-treatment-center facility.
- 4) Four two in municipalities (as defined in subsection (a)(4)), three of which shall be owned or operated by hospitals, at least two of which shall be located in counties with a population of less than 175,000, according to the most recent decennial census for which data are available, and one of which shall be owned or operated by an ambulatory surgical treatment center, one of which must--be--located--in--a--freestanding-ambulatory-surgical-treatment center.
- 5) Two in rural areas (as defined in subsection (a)(5)), each of which shall be owned or operated by hospitals. (Section 30(a-5)) of the Alternative Health Care Delivery Act (210 ILCS 3/30(a-5)))

(Source: Amended at 20 Ill. Reg. 14778, effective NOV 08 1996)

## Section 1100.760 Children's Respite Care Center Alternative Health Care Model

## a) Planning Areas:

- 1) The City of Chicago
- 2) Cook County outside the City of Chicago;
- 3) DuPage, Kane, Lake, Will and McHenry Counties;
- 4) Municipalities with a population greater than 50,000 not located in the areas described in subsections (a)(1), (2), and (3) of this Section. Municipalities means geographic areas designated as Metropolitan Statistical Area by the Bureau of the Census; and
- 5) Rural areas, i.e., all areas exclusive of subsections (a)(1), (2), (3), and (4) of this Section.

## HEALTH FACILITIES PLANNING BOARD

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- b) Age Groups:  
Children up to age 18.
- c) Development Restrictions:  
No more than one children's respite care model owned and operated by a licensed skilled pediatric facility shall be located in each of the areas designated in subsection (a) of this Section. (Section 30(a)(10) of the Alternative Health Care Delivery Act (210 ILCS 3/20(a)(10)))
- d) Respite Care:  
A Child's Respite Care Alternative Health Care Model shall provide care in a home-like environment that serves no more than 10 children at a time. (Section 35(3) of the Alternative Health Care Delivery Act (210 ILCS 3/35(3))) Bed capacity within a children's respite care alternative health care model shall not exceed 10 beds and shall be inventoried as a separate category of service.
- e) Occupancy Targets:  
Beds should have an occupancy of 40% or higher.
- f) Need Determination:  
There shall be no more than a total of eight Children's Respite Care Alternative Health Care Models in the demonstration program, located as follows:  
1) One in the City of Chicago.  
2) One in Cook County outside the City of Chicago.  
3) One in DuPage, Kane, Lake, McHenry and Will counties.  
4) Two in municipalities (as defined in subsection (a)(4)) not located in areas specified in subsection (f)(1), (2), (3) or (4) above.  
5) Two in rural areas (as defined in subsection (a)(5)) not located in areas specified in subsection (f)(1), (2), (3) or (4) above.  
(Section 30(a)(10) of the Alternative Health Care Delivery Act (210 ILCS 3/30(a)(10)))

(Source: Adopted at 20 Ill. Reg. 14778, effective NOV 13 1996.)

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- 1) Heading of the Part: Processing, Classification Policies and Review Criteria
- 2) Code Citation: 77 Ill. Adm. Code 1110
- 3) Section Numbers: Adopted Action:  
1110.1540 Amendments  
1110.2350 New Section  
1110.2770 New Section  
1110.2770 New Section  
1110.2740 New Section  
1110.2750 New Section
- 4) Statutory Authority: Implementing Public Act 89-393 and authorized by the Illinois Health Facilities Planning Act, 20 ILCS 3960 et seq.
- 5) Effective Date of Rulemaking: November 8, 1996
- 6) Does this rulemaking contain an automatic renewal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 1, 1996
- 9) Notice of Proposal Published in Illinois Register: March 15, 1996 at 20 Ill. Reg. 4149
- 10) Has JCPR issued a Statement of Objections to these rules? No
- 11) Difference(s) between Proposal and final version:  
1110.1540(b), sixth line, added "and whether the project will result in a limited specialty or multi-specialty ambulatory surgical treatment center (ASTC)." after "which will be provided by the proposed project".  
1110.1540(b), seventh line, created Section 110.1540(b)(1) and (2).  
1110.1540(b), eighth line, changed the surgical specialties to: abortions, anesthesia, cardiovascular, dermatology, gastroenterology, general, neurological, obstetrics/gynecology, ophthalmology, oral/maxillofacial, orthopaedic, other, otolaryngology, plastic, podiatry, thoracic and urology.  
1110.1540(c), added "the applicant must indicate which of the following types of ASTC will result from the proposed project: A) limited specialty ASTC, which provides at least three of the surgical specialties listed in this section; or B) Multi-specialty ASTC, which provides at least three of the

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surgical specialties listed in this section. AGENCY NOTE: A permit is required for the addition of a surgical specialty by a limited specialty ASC. A permit is not required for the addition of a surgical specialty by a multi-specialty ASC. Ambulatory surgical treatment facilities licensed as of March 1, 1995 shall be classified by the Agency as either limited specialty or multi-specialty based upon the listing of surgical specialties on file with the Agency's licensure program on that date."

1110.1540(c), fifth line, added "however, the intended geographic service area shall be no less than 30 minutes and no greater than 60 minutes travel time (under normal driving conditions) from the facility's site."

1110.1540(d)(B), first line, changed 24 months to 12 months.

Deleted language for 1110.1540(d)(1)(C) in response to public hearing testimony.

1110.1540(e)(1), removed "scheduled surgery period" from need formula to determine treatment rooms.

1110.1540(e)(2), first line, added "fully utilized (1,500 hours)" after the word "one".

1110.1540(f), fourth line after the word "ASTCs", deleted "or dedicated hospital based ambulatory surgery units, i.e., those (consisting of dedicated outpatient operating rooms, dedicated patient preparation and recovery space, and dedicated staff)".

1110.1540(f), seventh line, replaced "within 45 minutes travel time of the proposed facility" with "within the intended geographic service area".

1110.1540(f), thirteenth line, added "Outpatient surgical capacity will be determined by the Agency, utilizing the latest available data from the Agency's annual questionnaires, and will be the number of surgery rooms for ASTCs and the number of equivalent outpatient surgery rooms for hospitals. Equivalent outpatient surgery rooms for hospitals are determined by dividing the total hours of a hospital's outpatient surgery by 1,500 hours" after the word "facility".

1110.1540(g)(3), included "within the intended geographic service area" and removed "within 30 minutes travel time".

Eliminated 1110.1540(g)(4) from the proposed rulemaking in response to public hearing testimony.

Removed 1110.1540(h)(1-4) from the proposed rulemaking in response to public hearing testimony.

## HEALTH FACILITIES PLANNING BOARD

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1110.1540(h), fourth line, change "provide a list of charges by procedure which must be all inclusive, i.e., they must include all charges except for the physician's charge and the anesthesiologist's charges. The applicant must provide a commitment that these charges shall be maintained, at a minimum" to "include all charges except for any professional fee (physician charge). The applicant must provide a commitment that these charges will not be increased, at a minimum."

1110.1540(i), sixth line and ninth line, changed "within 30 minutes travel time" to "within the intended geographic service area" for clarity.

1110.2720(c), removed the term "Clinically Stable" from the proposed rulemaking in response to public hearing testimony.

1110.2720(d), changed "Out-of-Home Respite Care" to state that it is care provided in a facility setting to a clinically stable individual whose medical condition does not require major diagnostic procedures or therapeutic interventions and who normally receives such care in a home environment for the purposes of providing a respite to the caregiver.

1110.2740(b)(3), first line, included the word "proposed" in the first sentence after the word "A" in the beginning of the sentence. Also included that a Respite Care Center must comply with the development restrictions in 77 Ill. Adm. Code 1100.760(c).

1110.2750(a) sixth, seventh, and eighth lines, removed the words "discontinuation", "facility holding a" and "permit" respectively for clarity.

1110.2750(a), eighth line, after the word "Model", added "which proposes to cease participation in the demonstration program".

1110.2750(a), eleventh line, changed "discontinued" to "abandoned".

1110.2750(a), thirteenth line, after the word "later", added "and the facility should be removed from the inventory."

1110.2750(a), deleted the last sentence "if a need for an additional model exists, applications shall be approved in accordance with Section 1110.2740".

1110.2750(b), second line, remove "for the list of the permit" and replace with "until the demonstration program has been completed".

12) Have all the changes agreed upon by the Agency and JOAR been made as indicated in the agreement letter issued by JOAR? The Agency has made all the changes to which it agreed with the Committee.

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- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 1110.1540, Ambulatory Surgical Treatment Centers, is amended to review standards and criteria regarding the scope of services provided, the target population and projected patient volume of these facilities, and charge information.
- Section 1110.2550, Subacute Care Alternative Health Care Model, revises the allowed period to become operational for subacute care programs from 12 months to 24 months. These centers were established as test models under the Alternative Health Care Delivery Act.
- Sections 1110.2710-1110.2750 are new sections to Part 1110 for the establishment of Children's Respite Care Centers. These Sections will address review criteria and State Board review requirements.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Donald Jones  
 Address: Health Facilities Planning Board  
 Division of Facilities Development  
 525 West Jefferson, 2nd Floor  
 Springfield, Illinois 62761  
 Telephone: 217/782-3516

The full text of the Adopted Amendment begins on the next page:

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
 CHAPTER 11: HEALTH FACILITIES  
 PART 1110: AMBULATORY SURGICAL TREATMENT CENTERS  
 SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1110

## PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

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 1110.10  
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 1110.55

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 Projects Required to Obtain a Permit (Repealed)  
 Processing and Reviewing Applications  
 Classification of Projects  
 Recognition of Services Which Existed Prior to Permit Requirements  
 Recognition of Non-Hospital Based Ambulatory Surgery Category of Service  
 Master Design Projects

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1110.530 Medical/Surgical, Obstetric, Pediatric and Intensive Care--Review  
Criteria

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA--  
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MENTAL ILLNESS

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SUBPART J: CATEGORY OF SERVICE REVIEW CRITERIA--  
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 1110.2520 Subacute Care Hospital Model--Definitions  
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SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA --  
 CHILDREN'S RESPITE CARE ALTERNATIVE HEALTH CARE MODEL

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 1110.2710 Introduction  
 1110.2720 Children's Respite Care Center Alternative Health Care Model -- Definitions

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APPENDIX A	Medical Specialty Eligibility/Certification Boards				
APPENDIX B	State and National norms on Square Footage by Department				
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AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act (20 ILCS 3960).

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1989; amended at 13 Ill. Reg. 12659, effective September 19, 1990; amended at 14 Ill. Reg. 13159, effective September 19, 1991; for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; reclassified at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. effective March 22, 1996; amended at 20 Ill. Reg.

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SUPPART P - CATEGORY OF SERVICE REVIEW CRITERIA--  
NON-HOSPITAL BASED AMBULATORY SURGERY

Section 1110.1540 Non-Hospital Based Ambulatory Surgery--Review Criteria

- a) "Licensure" - Review Criterion Entirely  
Any applicant proposing to establish or modernize a non-hospital based ambulatory surgery category of service must document compliance or an administrative plan, in the case of facilities proposing to establish the service, which would assure compliance with all appropriate licensing regulations of the Agency.

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- b) "Scope of Services Provided" - Review Criterion Entirely  
Any applicant proposing to establish a non-hospital based ambulatory surgical category of service must detail the surgical specialties services which will be provided by the proposed project and whether the project will result in a limited specialty or multi-specialty ambulatory surgical treatment center (ASTC).  
1) The applicant must indicate which of the following surgical specialties will be provided at the proposed facility:

- 1) Abortions
  - 2) Anesthesiology
  - 3) Cardiology
  - 4) Dermatology
  - 5) Endocrinology
  - 6) Gastroenterology
  - 7) General
  - 8) Gynecology
  - 9) Obstetrics/Gynecology
  - 10) Ophthalmology
  - 11) Oral/Maxillofacial
  - 12) Orthopaedic
  - 13) Other
  - 14) Otolaryngology
  - 15) Plastic
  - 16) Podiatry
  - 17) Thoracic
  - 18) Urology
- 2) The applicant must indicate which of the following type of ASTC will be provided at the proposed facility:
- a) Limited specialty ASTC, which provides one or two of the surgical specialties listed in this Section or
  - b) Multi-specialty ASTC, which provides at least three of the surgical specialties listed in this Section.

AGENCY NOTE: A permit is required for the addition of a surgical specialty by a limited specialty ASTC. A permit is not required for the addition of a surgical specialty by a multi-specialty ASTC. Ambulatory surgical treatment facilities licensed as of March 1, 1995 shall be classified by the Agency as either limited specialty or multi-specialty based upon the listing of surgical specialties on file with the Agency's licensure program on that date.

- c) "Target Population" - Review Criterion Entirely  
Because of the nature of ambulatory surgical treatment, the State Board has not established geographic services areas for assessing need. Therefore, an applicant must define its intended geographic service area and target population. However, the intended geographic service area should be no less than 30 minutes and no greater than 60 minutes travel time (under normal driving conditions) from the facility's site.  
d) "Projected Patient Volume" - Review Criterion Entirely  
1) The applicant must provide documentation of the projected patient

## HEALTH FACILITIES PLANNING BOARD

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volume for each specialty to be offered at the proposed facility. Documentation must include physician referral letters which contain the following information: having defined an intended geographic service area and target population; the proposed facility's location; the proposed facility's volume for each surgical procedure; which will be provided; the projected patient volume estimate must be based on the number of patients who are currently referred for such surgical procedures to other ambulatory surgical treatment centers or acute care facilities by physicians who will refer patients to the proposed facility; the projection must be on an annual basis and represent the patients who will be referred to the proposed project for treatment.

A) the number of referrals anticipated annually for each specialty;

B) for the past 12 months, the name and location of health care facilities to which patients are referred for each surgical specialty; the number of patients referred for each surgical specialty by facility;

C) a statement by the physician that the information contained in the referral letter is true and correct to the best of his/her information and belief;

D) the typed or printed name and address of the physician; his/her specialty and his/her notarized signature.

2) Referrals to health care providers other than ambulatory surgical treatment centers (ASTC) or hospitals will not be included in determining projected patient volume. The applicant shall provide documentation demonstrating that the projected patient volume is based on the projected surgical service area defined within the geographic service area defined under subsection (C).

e) "Treatment Room Need Assessment" - Review Criterion Factors

- 1) Each applicant proposing to establish a non-hospital based ambulatory surgery category of service must document the proposed number of operating rooms are needed to serve the projected patient volume. Documentation must include the average time per procedure for the target population including an explanation as to how this average time per procedure was developed, will be required to submit documentation relative to the needs of the target population as defined and how the proposed project will meet those needs; the needs of the target population shall be based on the projected patient volume and the basis of accessibility and availability of services and cost benefits to the target population; the applicant must establish that the proposed project will improve the accessibility of services by meeting a determined need. The following formula can be applied in determining treatment room need:

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Required Treatment Rooms = Hrs. of Surgery/Yr. \*

250 Days/Yr. x 7.5 Hrs./Day x .80\*\*

Required Treatment Rooms = 250 Days x 7.5 Hours x .80 Desired Occupancy

(Hours of surgery per year includes cleanup and setup time and will be based on the projected treatment room occupancy rate.)  
(\*\*.80 is the desired occupancy rate.)

2) There must be a need documented for at least one fully utilized (1,500 hours) treatment room for a new facility to be established. Also, utilizing the formula the application must document the need for each treatment room proposed.

3) The applicant must also contact all facilities currently providing the service within 30 minutes travel time to determine the impact that the project will have on the patient volume at existing facilities.

4) In addition each applicant must document that the surgical procedures to be offered at the facility:

- A) procedures to the target population not currently available within 30 minutes travel time of the proposed facility; or
- B) if the services to be provided duplicate existing services within 30 minutes travel time of the applicant facility that the proposed project will offer substantial cost savings to the patient for surgical treatment obtained through a lower overhead cost or economies of operation or multi-institutional considerations.

f) "Impact on Other Facilities" - Review Criterion  
An applicant proposing to establish an ASTC must document that existing ASTC and hospitals within the intended geographic service area will have no detrimental surgical capacity of all other existing ASTCs and hospitals within the intended geographic service area and that the proposed project will not result in an unnecessary duplication of services or facilities. Documentation shall include any correspondence from such existing facilities regarding the impact of the proposed project, and correspondence from physicians intending to refer patients to the proposed facility. Outpatient surgical capacity will be determined by the Agency utilizing the latest available data from the Agency's annual questionnaires, and will be the number of surgery rooms for ASTCs and

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the number of equivalent outpatient surgery rooms for hospitals. Equivalent outpatient surgery rooms for hospitals are determined by dividing the total hours of a hospital's outpatient surgery by 1,500 hours.

In addition to documentation submitted by the applicant, the State Agency shall review utilization data from annual questionnaires submitted by such health care facilities and data received directly from health facilities located within the intended georathic service area, including public hearing testimony.

**Establishment of New Facilities - Review Criterion**

Any applicant proposing to establish an ambulatory surgical treatment center will be approved only if one of the following conditions exist:

- 1) There are no other ASTCs within the intended georathic service area of the proposed project under normal driving conditions; or
- 2) All of the other ASTCs and hospital equivalent outpatient surgery rooms within the intended georathic service area are utilized at or above the 80% occupancy target; or
- 3) The applicant can document that the facility is necessary to improve access to care. Documentation shall consist of evidence that the facility will be providing services which are not currently available in the georathic service area, or that existing underutilized services in the georathic service area have restrictive admission policies.

**Charge Commitment - Review Criterion**

In order to meet the purposes of the Act which are to improve the financial ability of the public to obtain necessary health services and to establish a procedure designed to reverse the trends of increasing costs of health care, the applicant shall include all charges for all services provided by the facility in the charges report for any professional services provided by the facility. The charges report shall be submitted to the State Agency and shall be increased, at a minimum, for the first two years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

**Change in Scope of Service - Review Criterion**

Any applicant proposing to change the surgical specialties currently being provided by adding one or more of the surgical specialties listed under subsection(b) of this Section must document one of the following:

- 1) that there are no other facilities (existing ASTCs or hospitals with outpatient surgical capacity) within the intended georathic service area which provide the proposed new specialty; or
- 2) that the existing facilities (existing ASTCs or hospitals with outpatient surgical capacity) within the intended georathic service area of the applicant facility are operating at or above the 80% occupancy target; or
- 3) that the existing programs are not accessible to the general population of the georathic service area in which the applicant facility is located.

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(Source: Amended at 20 Ill. Reg. **14785**, effective **NOV 08 1996**)

SUBPART 2: CATEGORY OF SERVICE REVIEW CRITERIA-SUBCATE  
CARE HOSPITAL MODEL

**Section 1110.2550 Subacute Care Hospital Model-Project Completion**

- a) Since the purpose for establishment of this category of service is to evaluate the alternative delivery model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing level of service separate from an alternative delivery model. A subacute care hospital model requires the facility electing to discontinue the model but retain licensed subacute care beds. The subacute care hospital model project shall be considered complete as of the date the Agency is notified of the discontinuation. If during the course of the model evaluation period an approved provider of the subacute hospital care model elects to discontinue the category of service, a replacement provider of the same type may be approved by the State Board. If a need for an additional subacute care hospital model exists, applications shall be approved in accordance with Section 1110.2540. Any alteration to the subacute care hospital model during the life of the permit is subject to State Board review.
- b) All assurances and charges for service presented in the application shall be in effect for the life of the permit unless altered pursuant to the approval of the State Board.
- c) A subacute care hospital model shall have 24 months from the date of permit issuance to become operational. Failure to begin operation in this time period shall result in the permit becoming null and void.

(Source: Amended at 20 Ill. Reg. **14785**, effective **NOV 08 1996**)

SUBPART 3B: CATEGORY OF SERVICE REVIEW CRITERIA -  
CHILDREN'S RESPITE CARE ALTERNATIVE HEALTH CARE MODEL

**Section 1110.2710 Introduction**

- a) Subpart 3B of this Part contains review criteria which pertain to the Children's Respite Care Alternative Health Care Model category of service. The Children's Respite Care Alternative Health Care Model category of service is a demonstration program which is authorized by the Alternative Health Care Delivery Act. These Children's Respite Care Alternative Health Care Model review criteria are utilized in addition to the General Review Criteria contained in Subpart 2 of this Part and in addition to the Financial and Economic Feasibility Review



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Criteria contained in 77 Ill. Adm. Code 1120. This Subpart also contains the category of health facilities in evaluation of the Illinois Health Care Model. The provisions of the Act concerning children's respite care centers shall not apply to any facility licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the University of Illinois Hospital Act, that provides respite care services to children (Section 15 of the Alternative Health Care Delivery Act [210 ICS 3/45]).

b) A Children's Respite Care Alternative Health Care Model must obtain a certificate of need permit to establish the category of service prior to receiving a license for the service. Failure to obtain such permit will result in the application of sanctions as provided in the Illinois Health Facilities Planning Act, and the Department of Public Health shall conduct an investigation to evaluate the model for quality factors, access and the impact on health care costs, each applicant approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. Data collected shall be provided to the Department of Public Health and the Illinois State Board of Health for use in their evaluation of the model.

d) Applications received for the Children's Respite Care Alternative Health Care Model shall be deemed complete upon receipt by the State Agency. All Children's Respite Care Alternative Health Care Models for purposes of review shall be considered the establishment of a category of service rather than the addition of beds. Therefore, the State Agency shall not apply to applications of this type. Due to the comparative nature of the Children's Respite Care Alternative Health Care Model review, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process prior to the initial State Board decision. The application, as submitted to the State Agency, shall serve as the basis for all standard and prioritization evaluations.

(Source: Added Nov 20 Ill. Reg. 14785, effective NOV 08 1996)

# Section 1110.2720 Children's Respite Care Center Alternative Health Care Model - Definitions

a) "Children's Respite Care Alternative Health Care Model" means a category of service for the provision of respite care to medically frail or technologically dependent children within a children's respite care center. Children cannot exceed age 18 and length of stay must be 14 days or less.

b) "Children's Respite Care Center" means a facility physically separate and apart from any other facility licensed by the Department of Public

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Health under the Alternative Health Care Delivery Act or any other Act and which is established and designed to provide a supportive environment to medically frail/technologically dependent children who are placed within the facility for short durations in order to provide a respite for the caregiver(s). The facility must provide at a minimum, out-of-home respite care, hospital to home training for families and caregivers, short term transitional care to facilitate placement and training for foster care parents, parent and family support groups (Section 35 of the Alternative Health Care Delivery Act [210 ICS 3/35]).

c) "Medically Frail or Medically Fragile Child" means a child who requires a particular medical device to compensate for the use of a body function and who must be constantly assessed and monitored and who is unable to receive health care readily available to avert death or further disability.

d) "Out-of-home Respite Care" means care provided in a facility setting to a clinically stable individual whose medical condition does not require major diagnostic procedures or therapeutic interventions and who normally receives such care in a home environment for the purposes of providing a respite to the caregiver from the responsibilities of providing such care.

e) "Short Term Transitional Care" means care provided to an individual on an interim basis to allow for the training of the home caregiver or to allow the relocation of the patient from one care environment to another.

f) "Technically Dependent or Technology Dependent Child" means a child who has a chronic health-related condition and whose survival and quality of life is dependent upon medical technology whether it be mechanical, biological or technical.

(Source: Added at 20 Ill. Reg. 14785, effective NOV 08 1996)

# Section 1110.2730 Children's Respite Care Center Alternative Health Care Model - Review Criteria

a) Admission Policies - Review Criterion  
The applicant must document that the Children's Respite Care Alternative Health Care Model will meet admission due to the child's diagnosis, source of payment, documentation shall consist of copies of all admission policies to be in effect at the facility and a signed statement that no restrictions on admissions due to the factors indicated above will occur.

b) Staffing - Review Criterion  
The applicant must document that the children's respite care center will have a medical director who has expertise in chronic diseases of children. The applicant must also provide a staffing plan that will provide for nursing coverage as required by licensure. Documentation

HEALTH FACILITIES PLANNING BOARD

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shall consist of: identification of the number and type of staff positions dedicated to the model; how special staffing circumstances will be handled; and identification of the facility medical director and a description of his or her responsibilities.

**Mandated Services - Review Criterion**  
The applicant must document that the children's respite care center has the capability of providing the minimum range of services required under the Act as referenced in Section 110.2720(b). Documentation shall consist of a narrative explaining how such services will be provided.

**Acute Care Backup - Review Criterion**  
The applicant must document that an agreement has been signed with an acute care facility for the referral of emergency patients. The acute care facility must be located within 15 minutes traveling time of the children's respite care center and have an organized pediatric department.

**Patient Screening/Emergency Care - Review Criterion**  
The applicant must document that an admission protocol will be established for the screening of potential residents for the severity of their conditions associated with the required care for the child. Facilities of this type are not intended to provide diagnosis or treatment or care to the chronic child whose medical condition would warrant placement in a facility when more sophisticated medical intervention is required. Documentation shall include a narrative description of all protocols developed for the medical screening of potential admissions. The applicant must also document that, for each child admitted, a care plan has been developed which identifies the medical needs of the child and identifies a physician that can be contacted in case of emergency. The applicant must submit a copy of the facility's protocols dealing with the medical needs of the individual care plans and how emergency situations will be handled.

**Education - Review Criterion**  
The applicant must document that children who participate in educational programs will continue to receive such services during the life of the facility. Documentation shall detail who has the responsibility for maintaining these services and how such services will be provided.

**Age Specific Needs - Review Criterion**  
The needs of the medically frail child differ due to medical condition and to the age of the patient. The applicant must document that if the center will admit children of all age groups that the appropriate staff expertise exists to deal with the care needs of all age groups admitted to the facility. Documentation shall consist of a narrative description of staff expertise as it pertains to the specific care needs required of the various age groups that will be admitted.

**Project Costs - Review Criterion**  
An applicant must document that the project cost to establish such model will not exceed \$800,000. Documentation shall be based on the

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

Part 1120 financial data submissions which detail the itemized costs of the project.

(Source: Added at 20 Ill. Reg. 14785, effective NOV 9 1996)

Section 1110.2740 Children's Respite Care Center Alternative Health Care Model - State Board Review

a) State Board Evaluation. The State Board shall evaluate each application for the Children's Respite Care Alternative Health Care Model category of service (refer to 77 Ill. Adm. Code 100.760(c)) for development restrictions based upon compliance with the conditions set forth in subsection (b).

b) State Board Prioritization  
1) An application for the category of service must meet the development restrictions specified in 77 Ill. Adm. Code 100.760(c).

2) All applications for each planning area shall be evaluated by the State Board and awarded points as follows:  
a) Compliance with all General Review Criteria --- 10 Points.

b) Compliance with all review criteria of Section 1110.2730 [Children's Respite Care Alternative Health Care Model Review Criteria] --- 10 Points.

c) Compliance with all applicable review criteria of 77 Ill. Adm. Code 1120 [Financial Review Criteria] --- 10 Points.

d) Location of the proposed model in a residential community under single family or group home zoning requirements --- 5 Points.

e) Location in a health professional shortage area (as defined by the Federal Department of Health and Human Services (Section 332 of the Public Health Service Act, 42 USC 253(e))) --- 5 Points.

3) A proposed Children's Respite Care Alternative Health Care Model must comply with the development restrictions specified in 77 Ill. Adm. Code 100.760(c) and must obtain a minimum of 20 points to be considered for approval. Competing applications within a planning area which have obtained the points necessary for permit consideration shall be evaluated by the State Board to determine which application best implements the goals of the Health Facilities Planning Act and the Alternative Health Care Delivery Act, including the extent to which the model will provide care in a home-like environment and be located in a residential community.

(Source: Added at 20 Ill. Reg. 14785, effective NOV 9 1996)

HEALTH FACILITIES PLANNING BOARD

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Section 1110.2750 Children's Respite Care Alternative Health Care Model - Project Completion

- a) Since the purpose for establishment of this category of service is to evaluate the alternative delivery model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing licensed level of service separate from an alternative delivery model. A permit will not be required of a Children's Respite Care Alternative Health Care Model which proposes to cease participation in the demonstration program. If the facility proposes to discontinue the model, written notice containing the reasons for the discontinuation must be submitted to the State Board at least 30 days prior to the anticipated discontinuation. The project shall be considered abandoned as of the date the Agency receives notice of the actual discontinuation or the date the last patient is discharged, whichever is later and the facility should be removed from the inventory.
- b) All assurances for service presented in the application shall be in effect until the demonstration program has been completed, unless altered pursuant to the approval of the State Board.

(Source: Added at 20 Ill. Reg. 14785, effective NOV 01 1996)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

- 1) Heading of the Part: Compensation of Local Governments for Emergency Planning and Participation in Nuclear Emergency Response Exercises
- 2) Code Citation: 32 Ill. Ad. Code 501
- 3) Section Number: 501.10 Adopted Action: New Section  
501.20 New Section  
501.30 New Section  
501.40 New Section  
501.50 New Section  
501.60 New Section  
501.70 New Section  
501.80 New Section  
501.90 New Section  
Appendix A New Section
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Nuclear Safety Preparedness Act (420 ILCS 5/4).
- 5) Effective Date of Rules: October 29, 1996
- 6) Does this rulemaking contain an automatic renewal date? No
- 7) Does these rules contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: October 29, 1996
- 9) Notice of Proposal Published in the Illinois Register: June 21, 1996 (20 Ill. Reg. 8196)
- 10) Has JCAM issued a Statement of Objections to these Rules? No
- 11) Differences between Proposal and final version:

- a) In the table of contents, on line 13, by changing the Section title to "Procedures for Awarding Future Block Grants".
- b) In the main source note, on line 22, by changing the main source note to read:
- "Emergency rule Adopted at 5 Ill. Reg. 14662, effective November 22, 1992, for a maximum of 150 days; adopted at 7 Ill. Reg. 5877, effective April 23, 1993; codified at 8 Ill. Reg. 1599; amended at 9 Ill. Reg. 1283, effective January 30, 1985; amended at 14 Ill. Reg. 16923, effective October 2, 1990; emergency rule adopted at 20 Ill. Reg. 8341, effective June 4, 1996, for a maximum period of 150 days; Part repealed, new Part adopted at 20 Ill. Reg. 14805."

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF ADOPTED RULE(S)

effective OCT 29 1996.

- c) In Section 501.60, on line 113, by changing the Section title to "Procedures for Awarding Future Block Grants".

- d) In Section 501.60, on lines 114 through 118, by rewriting the text of subsection (a) as follows:

"Participating local governments shall submit to the Department by April 30 of each year a grant application for the purpose of determining the amount of the block grant award. The application shall contain a brief description of the purpose for which the grant shall be sought and the proposed term of the grant and an annual administrative plan covering the projected expenses of the participating local government. The grant application shall also include the name, title, business address and phone number of the person designated to authenticate documents submitted on behalf of the local government and to act as point of contact for questions arising under the grant. The application shall be signed by the head of the local government and submitted on forms provided by the Department."

- e) In Section 501.60, by inserting after line 118, a new subsection (b) as follows:

"Special request applications shall be submitted to the Department by January 1 and special requirement applications may be submitted any time throughout the year."

- f) In Section 501.60, on line 118, by changing "(b)" to "(c)".

- g) In Section 501.90, on line 203, by adding a new sentence to the end of this subsection (b) as follows: "For personnel not normally paid an hourly rate, an hourly rate shall be determined by dividing the periodic salary or contract amount by the number of hours required to be worked. If there is no such requirement, the hours typically worked) within the period."

- h) In Section 501.90, on line 228, by changing "\$0.30" to "\$0.31".

- i) In Section 501. Appendix A, on line 377, by deleting "Mr. Steve M. Dunas".

- j) In Section 501. Appendix A, by inserting after line 379, "Head, Emergency Preparedness and Local Government Support Section".

- k) In Section 501. Appendix A, on line 397, by changing "HERDOF" to "HERDOF".

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF ADOPTED RULE(S)

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these rules replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of the Rules: This Rule will: (1) establish the policies and procedures necessary to complete local governments, through a block grant process, for the awarding and implementation of Section 4 of the Illinois Nuclear Safety Preparedness Act; (2) provide a better foundation for local governments in planning issues and equipment needs of local governments by allowing for the streamlining of the documentation process; (3) reduce administrative overhead for local governments by eliminating the claim submittal process; (4) establish a procedure for awarding future block grants to enable local governments to plan for costs associated with preparation, maintenance, training and exercise participation in a more efficient manner; and (5) set up an auditing and grant fund recovery procedure for verification of expenses incurred by local governments.

- 16) Information and questions regarding these amendments shall be directed to:

Valerie A. Puccini  
Staff Attorney  
Department of Nuclear Safety  
1035 Outer Park Drive  
Springfield, IL 62764  
(217) 782-9980 (voice)  
(217) 782-6133 (TDD)

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

TITLE 72: ENERGY  
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY  
SUBCHAPTER C: NUCLEAR FACILITY SAFETY

PART 501

COMPENSATION OF LOCAL GOVERNMENTS FOR EMERGENCY PLANNING AND PARTICIPATION IN NUCLEAR EMERGENCY RESPONSE EXERCISES

- Section 501.10 Purpose and Scope  
501.20 Definitions by Reference  
501.30 Policies and Procedures  
501.40 Establishment of Initial Block Grants  
501.50 Procedures for Awarding Future Block Grants  
501.60 Contents of Grant Agreement and Disbursement of Block Grant Funds  
501.70 Audit, Expenditure Record Requirements and Block Grant Fund Recovery Procedures  
501.80 Standards for the Determination of Permissible Uses of "Block Grant Funds"  
501.90 Appendix A Wording of the Block Grant Agreement

AUTHORITY: Implementing and authorized by Section 4 of the Illinois Nuclear Safety Preparedness Act (420 ILCS 5/41).

SOURCE: Emergency rule adopted at 5 Ill. Reg. 14862, effective November 22, 1982, for a maximum of 150 days; adopted at 7 Ill. Reg. 5877, effective April 23, 1983; codified at 8 Ill. Reg. 1359; amended at 9 Ill. Reg. 2283, effective January 30, 1985; amended at 14 Ill. Reg. 16823, effective October 2, 1990; emergency rule adopted at 20 Ill. Reg. 8341, effective June 4, 1996, for a maximum of 150 days; Part repealed, new Part adopted at 20 Ill. Reg. 14809, effective 01-29-1996.

Section 501.10 Purpose and Scope

The purpose of this Part is to establish the policies and procedures necessary to compensate local governments for costs associated with implementation of Section 4 of the Illinois Nuclear Safety Preparedness Act (the Act) [420 ILCS 5]. The policies and procedures contained in this Part are intended to further the following objectives:

- to encourage local government participation in preparing and implementing plans to deal with the effects of nuclear accidents;
- to reduce the encumbrance of public funds obligated by local governments in implementation of the Act; monies are paid to a block grant system of advancement of actual expenditures; and
- to provide guidance to local governments and Department staff in determining necessary activities and expenses payable pursuant to the

DEPARTMENT OF NUCLEAR SAFETY

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Act.

Section 501.20 Definitions

"Authorized Expenses" means the actual expenditures of public funds by a local government attributable to the implementation of the Act as determined necessary by the Director of the Department of Nuclear Safety (Department).

"Director" means the Director of the Department of Nuclear Safety or his designee.

"Drill" means the test or trial of a particular emergency preparedness system, function or operation, such as communications.

"Employee" means an individual actually paid wages or allowances by a local government for work performed on a full-time, part-time or intermittent basis.

"Exercise" means the testing of emergency response plans for nuclear facilities including, but not limited to, the biennial testing and evaluation of off-site radiological emergency response plans and preparedness in support of nuclear generating stations, as required by the U.S. Nuclear Regulatory Commission, 10 CFR 50, Appendix B, current as of January 1, 1996.

"Grantee" means a local governmental entity to which a grant is made.

"Local Government" means a political subdivision below the State Government level, such as a county, municipality, township, village or district, with authority to expend public funds.

Section 501.30 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

Section 501.40 Policies and Procedures

- The Department shall compensate local governments from fees collected pursuant to Section 4 of the Act.
- The District shall provide block grants to local governments for expenses relating to implementation of emergency planning and response



## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF ADOPTED RULE(S)

activities conducted by the Department to deal with the possibility of nuclear accidents at power generating stations.

c) All grant money received by this Part providing for payment of funds in advance of anticipated expenditures shall be made in accordance with a grant agreement to be executed by both the Director of the Department and the head of the local governmental entity to whom the grant is awarded.

d) The Division of Planning and Analysis (DPA), Office of Nuclear Facility Safety, shall be responsible for implementation of this Part and shall be the point of contact for local governments relative to the provisions contained herein.

## Section 501.50 Establishment of Initial Block Grants

The initial amount of the block grants shall be based on the following criteria.

a) The block grant shall be based on the amount determined by the Department to be an average of the actual expenses approved by the Department over the most recent three-year period, plus any additional recurring costs, as determined to be necessary or required by the Department.

b) Special requirement amounts shall be based on a local government's preparation for or participation in an exercise or drill that occurs outside of the annual exercise cycle. Such requests shall be made to the Department in writing, and will be subject to approval based upon available funds. Amounts dispersed and approved by the Department as special requirements will not be considered in calculating future grant awards.

c) Special request amounts shall be based on requirements identified by a local government for items such as special equipment needs. Such requests shall be made to the Department in writing, and will be subject to approval based upon available funds. Amounts dispersed and approved by the Department as special requests will not be considered in calculating future grant awards.

d) Special requirements and special requests approved by the Department after the dispersment of the initial block grant funds shall be incorporated into an amendment to the grant agreement before dispersment of the additional block grant funds.

## Section 501.60 Procedures for Awarding Future Block Grants

a) Participating local governments shall submit to the Department by April 30 of each year a grant application for the purpose of determining the amount of the block grant award. The application shall contain a brief description of the purpose for which the grant is being sought, the proposed term of the grant and an annual estimated spend plan covering the project expenses of the participating local government. The grant application shall also

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include the name, title, business address and phone number of the person designated to authenticate documents submitted on behalf of the local government and to act as point of contact for questions arising under the grant. The application shall be signed by the head of the local government and submitted on forms provided by the Department. Special request applications shall be submitted to the Department by January 1 and the special requirement applications may be submitted any time throughout the year.

c) Local governmental applicants who have not participated in the local consultation plan may be eligible to receive block grant funds pursuant to Section 501.90 of this part and subject to Department approval based upon available funds. Applicants shall contact the Department for the necessary application forms.

## Section 501.70 Contents of Grant Agreement and Dispersment of Block Grant Funds

a) The Director shall execute a grant agreement with each local government to whom a grant is awarded. The grant agreement shall specify the parties to the grant, the term of the grant, the amount of the grant, method of payment of the block grant funds, permissible uses of the block grant funds, that documentation of expenditures be maintained by the grantee, that unspent block grant funds shall be returned to the State as required by the Illinois Grant Funds Act (30 ILCS 705), that the Department may audit records required to be maintained to verify that grant funds are used for permissible uses under the grant, and that the grant agreement shall cease if funds for the grant are not appropriated by the General Assembly, and any other standard provisions required by the Comptroller to be included in grant agreements entered into by the State.

b) Upon execution of the grant agreement, the Department shall allocate funds to a grant account established for the participating local government in an amount equal to the grant award. On July 1 of each year, or as soon thereafter as is practicable, the Department shall disburse to the local government an amount equal to the approved grant expenses.

AGENCY NOTE: It is the Department's intent that block grant funds will be disbursed on July 1 of each year. However, such disbursement might be delayed for reasons beyond the Department's control (e.g., failure of the General Assembly to make appropriations before July 1).

## Section 501.80 Audit, Expenditure Record Requirements and Block Grant Fund Recovery Procedures

a) Participating local governments shall maintain, in separate files, documentation of expenditures under the grant that is readily accessible during a Department audit. Such documentation shall be on

## DEPARTMENT OF NUCLEAR SAFETY

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- forms provided by the Department.
- b) The Department shall have the right to audit and obtain copies of the books, records, and any other recorded information of the grantee related to grantee expenses for which grantee received compensation under this Part.
- c) If the Department finds that the grantee has misapplied or misappropriated any of the grant funds, the Department shall have the right of recovery of such block grant funds in accordance with the provisions and procedures of the Illinois Grant Funds Recovery Act [30 ILCS 705].
- d) The Department shall inform the local government on whether future disbursements of the grant award are subject to adjustment in accordance with the provisions and procedures of the Illinois Grant Funds Recovery Act [30 ILCS 705].

## Section 501.90 Standards for the Determination of Permissible Uses of Block Grant Funds

- a) The following standards are used by the Department staff in determining necessary activities and authorized expenses payable under the provisions of this Part. These standards are designed to achieve equality among known prospective grantees while taking into account the limitations imposed by the availability of appropriated funds.
- b) Necessary Activities:
- 1) Response planning, preparation, radiological training and drills.
  - 2) Facility nuclear response planning.
  - 3) Technical exercise critique and corrective action.
- c) Authorized Expenses:
- 1) Personnel Services
    - A) Wages, plus fringe benefits, actually paid to local governmental employees for participation in necessary activities as described in subsection (b) of this Section.
    - B) Compensation shall be based on hourly rates for the number of hours of actual participation in necessary activities as described in subsection (b) of this Section. Personnel not normally paid at an hourly rate, an hourly rate shall be determined by dividing the per diem rate by the number of hours required to be worked (or if within the period of non requirement, the hours typically worked) within the period.
    - C) Compensation for "matching funds" type employees shall be limited to wages actually paid from the local government's share of total funds contributed.
  - 2) Individual Travel
    - A) Travel allowances actually paid to local government employees for travel performed in connection with their participation in necessary activities as described in

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- subsection (b) of this Section.
- b) Compensation for transportation, lodging, and per diem or meal expenses shall not exceed the rate in the State of Illinois Travel Regulations, 80 Ill. Adm. Code 3000, in effect at the time the expenditure was incurred, unless a local government ordinance, rule or regulation applicable to all employees of the local government specifies a higher rate.
- 3) Equipment Use
- A) Costs actually paid, incurred or obligated for local government owned or leased equipment used during or in connection with a necessary activity as specified in subsection (b) of this Section, shall not exceed the rates indicated in the following table without complete documentation:

Type Equipment	Rate	Optional Rate
Automobile	\$0.31 per mile	\$3.20 per hour of actual operation
Bus	\$0.60 per mile	\$8.80 per hour of actual operation
Emergency Vehicle (ambulance, fire truck, rescue vehicle)	Base rate, fee or service charge customary to the area of operation	None

- C) Expenses for use of motorized equipment not listed in the table above shall be fully documented. Such documentation shall include the date of use, type of equipment, entity that used the equipment, miles or hours that the equipment was used, and cost per mile or hour for equipment use.
- 4) Miscellaneous Expenses
- A) Emergency Operations Center (EOC) Telecommunications
    - 1) Installation, service and maintenance charges for those telecommunication lines, circuits and equipment used exclusively for exercising nuclear emergency response plans.
    - 2) Telecommunication lines or circuit usage charges relating exclusively to the exercising of nuclear emergency response plans.
  - B) EOC Operational Materials: costs of maps, charts, plexiglass, status boards and similar materials relating exclusively to the exercising of nuclear emergency response plans.

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## Section 501-Appendix A. Wording of the Block Grant Agreement

The wording of a block grant agreement, which is entered into by the Department and local governments for the payment of funds in advance of anticipated expenditures to be incurred by local governments for their participation in the planning and response activities as specified in Section 501.90 of this Part, shall contain the following provisions except that the instructions in the parentheses are to be replaced with the relevant information and the parentheses deleted:

## STATE OF ILLINOIS

DEPARTMENT OF NUCLEAR SAFETY  
INTERGOVERNMENTAL GRANT AGREEMENT

## NO. \_\_\_\_\_

This Agreement is made and entered into by and between the Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, IL 62704, hereinafter referred to as DEPARTMENT, and the \_\_\_\_\_ (name and address of the local governmental entity), hereinafter referred to as (VILLAGE, THE DISTRICT, ETC.).

## Introductory Statement

The Illinois Nuclear Safety Preparedness Act [420 ILCS 5] (the Act) authorizes DEPARTMENT to compensate local governments from fees collected pursuant to Section 4 of the Act for expenses incurred in activities defined as necessary by the Director of the DEPARTMENT to implement and maintain the plans and programs authorized by the Act. The Intergovernmental Cooperation Act [5 ILCS 220] authorizes the creation of intergovernmental agreements and contracts between public agencies of this State. Both DEPARTMENT and (VILLAGE, THE DISTRICT, ETC.) are public agencies of this State. (VILLAGE, THE DISTRICT, ETC.) is a public agency of this State. The Grant Funds Recovery Act [30 ILCS 705] provides for the recovery by DEPARTMENT of unused block grant funds.

## Terms of Agreement

DEPARTMENT and (VILLAGE, THE DISTRICT, ETC.) hereby agree as follows:

- 1) Purpose: The purpose of this grant is to encourage participation by (VILLAGE, THE DISTRICT, ETC.) in the emergency planning and response activities conducted by DEPARTMENT pursuant to the Act. Under this grant, DEPARTMENT hereby agrees to compensate (VILLAGE, THE DISTRICT, ETC.) for expenses incurred in implementing plans and programs to deal with the possibility of a nuclear accident, as authorized by the Act.

## DEPARTMENT OF NUCLEAR SAFETY

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- 2) Term: This grant shall provide for compensation of funds expended between July 1, \_\_\_\_\_, through June 30, \_\_\_\_\_.
- 3) Use: Permissible expenditures by (VILLAGE, THE DISTRICT, ETC.) for which compensation will be made under this Agreement shall be those expenditures which are in accordance with the terms of the Act and with the standards set forth in 32 Ill. Adm. Code 501.90.
- 4) Method of Payment: As soon as practicable after execution of this Agreement, DEPARTMENT shall disburse to (VILLAGE, THE DISTRICT, ETC.) (SPEL OUT DOLLAR AMOUNT) (\$ \_\_\_\_\_), an amount equal to the DEPARTMENTALLY approved grant expenses that are anticipated to be incurred by (VILLAGE, THE DISTRICT, ETC.) in the State fiscal year \_\_\_\_\_. Payments under this Agreement shall be directed to:

(name and address of the Village,  
District, etc.) \_\_\_\_\_

- 5) (VILLAGE, THE DISTRICT, ETC.) shall maintain documentation of actual compensable expenditures made in accordance with Article 3 above. Such documentation shall be on forms provided by DEPARTMENT and subject to the provisions of 32 Ill. Adm. Code 501.80.
- 6) Amount of Grant: The maximum amount payable to (VILLAGE, THE DISTRICT, ETC.) under this Agreement shall be (SPEL OUT DOLLAR AMOUNT) (\$ \_\_\_\_\_).
- 7) Recovery of Funds: As required by Section 4 of the Illinois Grant Funds Recovery Act [30 ILCS 705], DEPARTMENT, beginning at the end of this Agreement shall be returned to DEPARTMENT within 45 days. In the event that (VILLAGE, THE DISTRICT, ETC.) is compensated by DEPARTMENT for expenditures actually and legitimately incurred under this Agreement, (VILLAGE, THE DISTRICT, ETC.) shall return said excess compensation to DEPARTMENT within 45 days after the date that DEPARTMENT makes such a request for payment. In addition, DEPARTMENT may pursue other recovery actions as specified in Section 6 of the Illinois Grant Funds Recovery Act [30 ILCS 705].
- 8) Audit: DEPARTMENT may audit records required to be maintained under 32 Ill. Adm. Code 501.80 to verify that grant monies are being spent for permissible uses as specified in Article 3 of this grant agreement.
- 9) Records and Reports: (VILLAGE, THE DISTRICT, ETC.) shall maintain, for a minimum of 5 years after the completion of this Agreement, adequate books, records, and supporting documents to verify the

## DEPARTMENT OF NUCLEAR SAFETY

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amounts, recipients, and uses of all disbursements passing in conjunction with this Agreement. (VILLAGE, THE DISTRICT, ETC) shall make available, on request, all books, records, and supporting documents related to this Agreement for review and audit by the Auditor General and/or the Department. (VILLAGE, THE DISTRICT, ETC) agrees to cooperate fully with the audit conducted by the Auditor General of the Department and to provide full access to all relevant materials.

10) Independence of (VILLAGE, THE DISTRICT, ETC): Any personnel, including contractors, who may be employed by (VILLAGE, THE DISTRICT, ETC) in connection with this Agreement shall not be considered for any purpose to be agents or employees of DEPARTMENT. Nothing in this Agreement shall be construed to render (VILLAGE, THE DISTRICT, ETC) an agent or employee of DEPARTMENT.

11) Assignment: This Agreement shall not be assigned.

12) Modification: No modification of this Agreement may be made unless agreed to in writing by both parties.

13) Illinois Law: This Agreement shall be interpreted in accordance with Illinois law.

14) Non-appropriation of Funds: This Agreement will cease immediately and without further liability, if in any fiscal year the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds for this Agreement. In this event, (VILLAGE, THE DISTRICT, ETC) will be paid for expenditures made during the period for which funds were available.

15) Termination: Each party reserves the right to terminate this Agreement upon 30 days written notice.

16) International Anti-Boycott Certification: (VILLAGE, THE DISTRICT, ETC) certifies that neither (VILLAGE, THE DISTRICT, ETC) nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act (see 30 LCS 582).

17) Taxpayer Identification Number and Legal Status Disclosure: (VILLAGE, THE DISTRICT, ETC) shall complete the form entitled "CONTRACTOR'S FEDERAL TAXPAYER IDENTIFICATION NUMBER AND LEGAL STATUS DISCLOSURE CERTIFICATION FORM," which shall be provided by DEPARTMENT and made a part of this grant agreement.

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF ADOPTED RULE(S)

18) Contact persons and notices: DEPARTMENT's contact person for matters related to this Agreement is:

Illinois Department of Nuclear Safety  
Division of Planning and Analysis  
Risk and Emergency Preparedness and Local Government  
Support Section  
1035 Outer Park Drive  
Springfield, IL 62704  
217/785-9863

(VILLAGE, THE DISTRICT, ETC)'s contact person is:

(NAME OF PERSON)  
(NAME OF ENTITY)  
(ADDRESS)  
(PHONE NUMBER)

DEPARTMENT and (VILLAGE, THE DISTRICT, ETC) may, from time to time, designate in writing different contact persons or addresses. Unless otherwise specifically provided herein, all notices or submittals required or permitted pursuant to this Agreement shall be deemed given when personally delivered or upon three (3) days after being posted by certified or registered mail, return receipt requested, postage prepaid, to the designated contact person at the designated address.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

STATE OF ILLINOIS

(NAME OF ENTITY)

DEPARTMENT OF NUCLEAR SAFETY

(ADDRESS)

1035 Outer Park Drive

Springfield, IL 62704

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_

FEIN: \_\_\_\_\_

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Plan for the Compensation of Local Governments Under Provisions of the "Illinois Nuclear Safety Preparedness Act"

2) Code Citation: 32 Ill. Adm. Code 501

3) Section Number: Adopted Action:

501.10 Repealed  
501.20 Repealed  
501.30 Repealed  
501.40 Repealed  
501.50 Repealed

- 4) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Nuclear Safety Preparedness Act (420 ILCS 5/4).

5) Effective Date of Repealer: October 29, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this repealer contain incorporations by reference? Yes

8) Date filed in Agency's Principal Office: October 29, 1996

9) Notice of Proposal Published in the Illinois Register: June 21, 1996 (20 Ill. Reg. 8199)

10) Has JCAR issued a Statement of Objections to this Repealer? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? The Joint Committee on Administrative Rules did not issue an agreement letter for this Part.

13) Will this repealer replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: The Department is repealing its current rules entitled Plan for the Compensation of Local Governments under Provisions of the "Illinois Nuclear Safety Preparedness Act", 32 Ill. Adm. Code 501, and replacing it with a new rule which is published elsewhere in this edition of the Illinois Register. The Department is taking this action to streamline the procedures that local governments must follow to receive compensation for damages that they suffer from nuclear incidents and emergency response conducted by the Department pursuant to the provisions of the Illinois Nuclear Safety Preparedness Act.

## DEPARTMENT OF NUCLEAR SAFETY

## NOTICE OF ADOPTED REPEALER

- 16) Information and questions regarding this repealer shall be directed to:

Valerie Puccini  
Staff Attorney  
Department of Nuclear Safety  
1035 Outer Park Drive  
Springfield, Illinois 62704  
217/785-3861 (voice)  
217/785-9900 (TDD)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Aid to Families with Dependent Children

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: Adopted Action:  
112.110  
Amendment  
112.151  
Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P. L. 103-286

5) Effective Date of Amendments: November 1, 1996

6) Does this rulemaking contain an automatic re-eval date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: November 1, 1996

9) Notice of Proposal Published in Illinois Register: June 28, 1996 (20 Ill. Reg. 8433)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:

1. In Section 112.110(a)(7), the Illinois Revised Statute citation was stricken.

2. In Section 112.110(b)(1), "(24)" was stricken and replaced by "(25)".

3. In Sections 112.110(a)(2) and 112.151(b)(19), "pursuant to P. L. 103-286" was added after "persecution".

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect? No

14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
112.66	New Section	August 16, 1996 (20 Ill. Reg. 10766)
112.71	Amendment	August 30, 1996 (20 Ill. Reg. 11560)

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## NOTICE OF ADOPTED AMENDMENTS

112.75	New Section	September 13, 1996 (20 Ill. Reg. 123)
112.98	Amendment	April 26, 1996 (20 Ill. Reg. 5965)
112.330	Amendment	August 23, 1996 (20 Ill. Reg. 11462)
112.414	Amendment	October 11, 1996 (20 Ill. Reg. 13138)

15) Summary and Purpose of Amendments: Pursuant to provisions of Public Law 103-286, these amendments exempt both as income and assets, any payments made under the German Restitution Act to certain survivors of the Holocaust. The payments may be made periodically or as a lump sum. As a result of this exemption, payments made to survivors of the Holocaust are not considered in determining eligibility for the AFDC program.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umuna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID  
NOTICE OF ADOPTED AMENDMENTSTITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112  
AID TO FAMILIES WITH DEPENDENT CHILDREN

## SUBPART A: GENERAL PROVISIONS

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112.1	Description of the Assistance Program
112.5	Incorporation by Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

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112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
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112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
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112.70	Participation Requirements for JOBS
112.71	Individuals Exempt from JOBS
112.72	JOBS Participation/Cooperation Requirements
112.73	JOBS Assessment
112.74	JOBS Initial Assessment Process/Development of an Employability Plan
112.76	JOBS Orientation and Fair Hearings
112.77	JOBS Components
112.78	JOBS Sanctions
112.79	Good Cause for Failure to Comply with JOBS Participation Requirements
112.80	Responsible Relative Eligibility for JOBS
112.81	JOBS Supportive Services
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NOTICE OF ADOPTED AMENDMENTS112.83 Young Parents Program  
112.84 Work Experience Evaluation Project  
112.85 Four Year College/Vocational Training Demonstration Project

## SUBPART E: PROJECT ADVANCE

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112.86	Project Advance
112.87	Project Advance Experimental and Control Groups
112.88	Project Advance Participation Requirements of Experimental Group
112.89	Members and Adjudicated Fathers
112.90	Project Advance Cooperation Requirements of Experimental Group
112.91	Members and Adjudicated Fathers
112.92	Project Advance Sanctions
112.93	Good Cause for Failure to Comply with Project Advance
112.94	Individuals Exempt From Project Advance
112.95	Project Advance Supportive Services

## SUBPART F: EXCHANGE PROGRAM

Section	
112.96	Exchange Program

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section	
112.100	Unearned Income
112.101	Unearned Income of Stepparent or Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.111	Education Benefits
112.112	Incentive Allowances
112.113	Unearned Income In-Kind
112.115	Unmarked Income
112.116	Lump Sum Payments
112.117	Protected Income
112.118	Exempt Income
112.119	Earned Income Tax Credit
112.120	Budgeting Earned Income
112.121	Budgeting Earned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.122	Initial Employment
112.123	Budgeting Earned Income For Contractual Employees
112.124	Budgeting Earned Income For Non-Contractual School Employees
112.125	

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112.137	Termination of Employment
112.138	Transitional Payments (Repealed)
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion From Earned Income Exemption
112.143	Recognized Employment Expenses
112.144	Income From Work/Study/Training Program
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Income From Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets
112.152	Asset Disregards
112.153	Deferral of Consideration of Assets
112.154	Property Transfers (Repealed)
112.155	AFCDC Income Limit

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112.200	Grant Levels
112.250	Payment Levels in AFDC
112.251	Payment Levels in AFDC Group I Counties
112.252	Payment Levels in AFDC Group II Counties
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112.254	Payment Levels in AFDC Group IV Counties

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112.300	Persons Who May Be Included in the Assistance Unit
112.301	Payment Eligibility
112.302	Monthly Reporting
112.303	Retrospective Budgeting
112.304	Budgeting Schedule
112.305	Strikers
112.306	Foster Care Program
112.307	Responsibility of Sponsors of Aliens
112.308	Special Needs Authorizations
112.309	Institutional Status
112.310	Young Parent Program (Renumbered)
112.311	Redetermination of Eligibility
112.320	Employment of Medical Assistance Due to Increased Income from
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112.331	Collections
112.332	Extension of Medical Assistance Due to Loss of Earned Income

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112.340	Disregard (Repealed)
	Methods of Payment to Individuals Released from Department of Corrections Facilities

## SUBPART J: CHILD CARE

Section	
112.350	Child Care
112.351	Child Care Eligibility
112.352	Qualified Provider
112.353	Notification of Available Services
112.354	Participant Rights and Responsibilities
112.355	Additional Services to Satisfy or Maintain Child Care Arrangements
112.356	Rates of Payment for Child Care
112.357	Method of Providing Child Care
112.358	Non-JOBS Education and Training Program
112.370	Non-JOBS Education and Training Program

## SUBPART K: TRANSITIONAL CHILD CARE

Section	
112.400	Transitional Child Care Eligibility
112.401	Duration of Eligibility for Transitional Child Care
112.402	Loss of Eligibility for Transitional Child Care
112.403	Notification of Available Services
112.404	Participant Rights and Responsibilities
112.405	Child Care Overpayments and Recoveries
112.406	Fees for Service for Transitional Child Care
112.407	Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. P. 117, effective August 18, 1978; amended at 2 Ill. Reg. 31, P. 134, effective August 5, 1979; emergency amendment at 2 Ill. Reg. 37, P. 4, effective August 30, 1979, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, P. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, P. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, P. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, P. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, P. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 39, P. 243, effective September 11, 1979; peremptory amendment at 3 Ill. Reg. 38, P. 321, effective September 17, 1979; amended at 3 Ill. Reg. 46, P. 36, effective November 1, 1979; amended at 3 Ill. Reg. 47, P. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, P. 1, effective November 15, 1979; peremptory



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## NOTICE OF ADOPTED AMENDMENTS

at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 601, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective October 1, 1989; amended at 13 Ill. Reg. 15131, effective November 1, 1989; emergency amendment at 13 Ill. Reg. 16143, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 4306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 38, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 7862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 1, 1991; amended at 15 Ill. Reg. 5684, effective April 11, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11477, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9977, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective January 1, 1993; amended at 17 Ill. Reg. 818, effective January 1, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 7903, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 13797, effective October 17, 1994; emergency amendment at 18 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 7843, effective February 24, 1995; amended at 19 Ill. Reg. 9609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective September 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995.

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## NOTICE OF ADOPTED AMENDMENTS

1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 17, 1996; amended at 20 Ill. Reg. 10996, effective April 25, 1996; amended at 20 Ill. Reg. 12111, effective May 1, 1996; amended at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective NOV 01 1996.

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

## Section 112.110 Except Unearned Income

- a) The following unearned income from governmental sources shall be exempt from consideration in determining eligibility and the level of assistance payment: the coupon allotment under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- 1) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
  - 3) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4636);
  - 4) Any funds distributed per capita to or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, P.L. 94-114 or P.L. 94-500;
  - 5) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 U.S.C. 6021-6024);
  - 6) Any compensation provided to individual volunteers under the Volunteers in Service to America (VISTA) Program;
  - 7) Income received under the provisions of Section 4(c) of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (44th-Rev-Stat-1991-chr-67-477 per-4847) [320 ICs 25/4]. This includes both the benefits commonly known as the circuit breaker and additional grants;
  - 8) Payments for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, persons acting in the Service Corps of America (SCOA), (SCHOA), (SCHOA) and (SCHOA) (ACE) and any other programs under Titles II and III, pursuant to Section 419 of P.L. 93-113;
  - 9) Unearned income such as need based payments, cash assistance, compensation in lieu of wages and allowances received through the Jobs Training Partnership Act;
  - 10) Social Security death benefit expended on a funeral and/or burial;
  - 11) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 U.S.C. 1780(b)) and the special food service program for children under the National



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- School Lunch Act, as amended (42 U.S.C. 1760):
- 12) Tax exempt portions of payments made pursuant to the Native Claims Settlement Act (43 U.S.C. 1626);
  - 13) Payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 U.S.C. 1989b through 1989b-8);
  - 14) Payments received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. 1989c through 1989c-8);
  - 15) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund, referencing Agent Orange product liability under P.L. 101-143;
  - 16) Federal subsidies under the Radiation Exposure Compensation Act;
  - 17) Federal subsidized housing payments under Section 8 of the Housing and Community Development Act;
  - 18) Any adoption subsidy payment or foster care payment received from DCFS or from a state welfare agency of another state are exempt for MAG and MANG. Independent Living Arrangement Payments are not exempt for MAG and MANG;
  - 19) Supportive Service payments made by the Job Opportunities and Basic Skills Training (JOBS) Program to any JOBS participant (Section 112.82);
  - 20) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to Section 2603(f) of P.L. 97-35;
  - 21) Disaster relief payments provided by Federal, state or local government or a disaster assistance organization;
  - 22) Any payment provided by the Department of Mental Health and Substance Abuse Services (DMH) to the Family Assistance Program for Mentally Disabled Children under P.A. 86-921;
  - 23) GA Emergency Financial Assistance issued through vendor payment. These payments can only be issued once in a twelve-month period to persons who do not currently receive AFPC cash assistance; and
  - 24) A non-recurring lump sum SSI payment (for example, Zebley Payment) made to an individual in an AFPC assistance unit. For those individuals not in an AFPC assistance unit whose income is used to determine AFPC eligibility for others (for example, stepparents, parents), the lump sum payment is nonexempt income for the month received;
  - 25) Payments made to individuals because of their status as victims of Nazi persecution pursuant to P.L. 103-286.
- b) In addition to the above, the following unearned income from non-governmental sources shall be exempt from consideration in determining eligibility and the cash assistance payment:
- 1) other unearned income (excluding those unearned income items referenced in subsections (a)(1) through (a)(25)(f44) described in

## DEPARTMENT OF PUBLIC AID

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- other provisions of the Section) of up to \$30.00 per person per quarter;
- 2) The value of home produce which is used for personal consumption;
  - 3) Child support payments made to an assistance unit by the Department which represents the first \$50 or any lesser amount of support collected in a month;
  - 4) Payments from the principal or trust of a trust fund made to or on behalf of a dependent child when the court orders the money released for a specific purpose other than the income maintenance needs of the child;
  - 5) Earned child support payments received by the client for the support of a child not included in the assistance unit; and
  - 6) Cash which is exchanged for purposes of satisfying payment of shelter-related obligations in situations where the assistance unit shares a dwelling unit with the family, including for utilities, which are not available to the family, the needs of the party who received and disburses the shelter-related payment.
- (Source: Amended at 20 111. Reg. **14820** effective **11-10-1996**)
- Section 112.151 Exempt Assets
- a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
    - 1) A home which is the usual residence of the assistance unit;
    - 2) Clothing, personal effects and household furnishings;
    - 3) One automobile if the equity value does not exceed \$1500.
    - 4) The value of the coupon allotment under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
    - 5) The value of the U.S. Department of Agriculture donated foods (supplemental diets);
    - 6) The value of supplemental food assistance received under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) as amended, and the special food service program for children under the National School Lunch Act (42 U.S.C. 1751 et seq.), as amended;
    - 7) The principal and interest of a trust fund which, upon petition, the court refuses to release and one-time only payments released for a specific purpose other than income maintenance needs of the child;
    - 8) Burial plots;
    - 9) Prepaid Funeral Agreements worth \$1500 or less per person;
    - 10) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (that is, not available to the client or the responsible relative) over the assets or donations or benefits; or
    - 11) A non-recurring lump sum SSI payment (for example, Zebley

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Payment) made to an individual in an AFDC assistance unit is exempt as an asset for the month of receipt and the following month. For the third month, any remainder must be counted as a nonexempt asset.

- b) In addition to the above, the following assets are exempt. The assets listed in this subsection (b) remain exempt only as long as they can be separately identified if they are added to an existing account. If the amount of combined assets at any time, from the time of the receipt of the exempt asset or assets until the date of the eligibility determination, exceeds the amount of the remaining assets, the entire amount of the exempt assets shall be counted as a nonexempt asset.

- 1) The assets of a stepparent for purposes of determining the stepchild's eligibility.
- 2) Any benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965 (42 U.S.C. 3045 et seq.), as amended.
- 3) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).
- 4) Any payments distributed per capita or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134 or P.L. 94-340, except portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).
- 5) Federally subsidized housing payments under Section 8 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), effective January 1, 1975, of the U.S. Housing Act of 1937, as amended.
- 6) Effective October 17, 1975, receipts distributed to certain Indian Tribal members of marginal land held by the United States government.
- 7) Payments for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, and persons serving in the Service Corps of Retired Executives (SCORE) and the Older Americans Resource Survey (OARS) programs under Titles II and III, pursuant to Section 418 of P.L. 93-113.
- 8) Any grant or loan to an undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education.
- 9) For those individuals who have approved self-employment plans under Section 112.78, business assets must be separate from personal assets. Business assets are those assets that are directly related to producing goods and services that have been purchased after the business begins or as part of an approved self-employment plan (see Section 112.78). Business assets are considered exempt unless it is determined that the equity value (the value for which the asset can be sold less any amount owned

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

on the asset) exceeds \$1,000. If the assets are determined to exceed \$1,000 but are less than \$5,000, the case is to be referred to the Bureau of AFDC JOBS Administration for review to ensure that the assets in excess of \$1,000 are appropriate as business assets. A determination of business assets will be completed two years after the plan is approved.

- 11) Any payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 U.S.C. 1989b through 1989b-8).
- 12) Any payment received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. 1989c through 1989c-8).
- 13) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.
- 14) Payments made by the Illinois Department of Mental Health and Developmental Disabilities under the Family Assistance Program for Mentally Disabled Children under P.A. 86-921.
- 15) Assets accumulated from income earned through employment under the federal "Health Start" Project.
- 16) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
- 17) Earned child support payments received by a client for the maintenance of children of the client.
- 18) Payments received under the Radiation Exposure Compensation Act.
- 19) Payments made to individuals because of their status as victims of Nazi persecution pursuant to P.L. 103-286.

(Source: Amended at 20 Ill. Reg. 14820, effective NOV 01 1996)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Application Process
- 2) Code Citation: 89 Ill. Adm. Code 110
- 3) Section Numbers: Adopted Action:  
110.10 Amendment  
110.15 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: November 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: November 1, 1996
- 9) Notice of Proposal Published in Illinois Register: July 12, 1996 (20 Ill. Reg. 8926)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:
  1. In Section 110.10(g)(1)(B)(11), "Joint Commission on the Accreditation of Hospitals (JCAH)" was changed to "Joint Commission on the Accreditation of Health care Organizations (JCAHO)".
  2. In Section 110.10(g)(3)(C), "JCAR" was changed to "JCAHO".
  3. In Section 110.15, "A original signed application" was changed to "A signed original application".

No other changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No

- 14) Are there any Amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: When the rule was originally written, the use of fax machines was not as prevalent as it is today by individuals

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## NOTICE OF ADOPTED AMENDMENTS

outside of the business community. Today, more people choose to send information to local offices via facsimiles. The amendments add to the rule the provision that a facsimile (fax) of an application cannot be accepted.

This rulemaking specifies what is considered a written request and establishes that the date the local office receives a completed original application as the date of application. As a result of these adopted amendments, a faxed application will be returned to the applicant or applicant's authorized representative and the original application requested.

Companion amendments are also being adopted in 89 Ill. Adm. Code 104.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umuna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 110

## APPLICATION PROCESS

- Section  
110-1 Incorporation By Reference  
110-10 Application For Assistance  
110-15 Local Office Action on Application for Public Assistance  
110-20 Limitations on Disposition of Application  
110-30 Approval of An Application And Initial Authorization of Financial Assistance  
110-32 Initial Authorization of Medical Assistance (MAG)  
110-34 Approval of An Application and Initial Authorization of Medical Assistance - (MANG)  
110-36 Initial Authorization of General Assistance - Medical  
110-38 General Assistance and Aid to the Medically Indigent Special Approval Provisions  
110-40 Denial Of An Application

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 3/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency amendment at 2 Ill. Reg. 44, p. 167, effective October 19, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 6 Ill. Reg. 8125, effective July 1, 1982; codified at 7 Ill. Reg. 5195; amended at 8 Ill. Reg. 6760, effective May 3, 1984; amended at 9 Ill. Reg. 6798, effective April 30, 1985; amended at 9 Ill. Reg. 13087, effective August 16, 1985; amended at 12 Ill. Reg. 11457, effective July 1, 1988; amended at 13 Ill. Reg. 3836, effective March 10, 1989; amended at 13 Ill. Reg. 10628, effective June 22, 1989; amended at 14 Ill. Reg. 13198, effective August 6, 1990; amended at 16 Ill. Reg. 6661, effective October 13, 1992; amended at 17 Ill. Reg. 640, effective December 31, 1992; emergency amendment at 19 Ill. Reg. 8429, effective June 9, 1995; for a maximum of 150 days; amended at 19 Ill. Reg. 15053, effective October 17, 1995; amended at 20 Ill. Reg. **14834**, effective **NOV 01 1996**.

## Section 110-10 Application For Assistance

- a) An application is a signed request for assistance on a Department of Public Aid ("Department") form which has been completed to the best of the client's knowledge and ability.  
b) The application must contain an original signature or signatures. If

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

the application does not contain an original signature or signatures, the local office shall return the application to the sender to obtain the original signature or signatures.

c) The application must be signed by the applicant with the following exceptions:

- 1) When a conservator has been appointed for the applicant, the conservator must sign the application.
- 2) When the applicant is physically or mentally unable to sign the application, the application may be signed by someone acting responsibly in behalf of the applicant.
- 3) When application for medical assistance on behalf of a child, the child's parent must sign the application.
- 4) When the applicant has appointed an authorized representative with the Department. (An authorized representative is a person authorized by the applicant to act on his or her behalf.)
- d) Application for medical assistance may be made in behalf of a deceased person. In order for payment to be made by the Department for the funeral and burial expenses of the decedent, the completed application must be received in the local office not more than thirty (30) calendar days after the individual's death, excluding the day on which death occurred, unless delay in receipt of the form occurred through no fault of the individual applying.
- e) The applicant may be assisted by the Department and by individuals acting in behalf of the applicant.
- f) The date of application shall be the date completed original application is received by the local office serving the area of State in which the applicant lives, with one exception: for applications completed by pregnant women and children under age 18 at a disproportionate share hospital or federally qualified health center, the date the application is signed by the applicant shall be the date of application.

g) If an application form is filed with the County Department for determination of eligibility for medical assistance and is subsequently denied because categories of assistance does not exist and is referred for why the date of application shall be the date and application was received in the County Department.

h) Application No Grant - Aid to the Aged, Blind or Disabled (MANG) (ABND) Application shall be made for residents of facilities operated by the Department of Mental Health and Developmental Disabilities (DMHDD) only when the services received by the residents are being provided in a covered setting. Covered setting is defined according to the services provided, the age and diagnosis of the patient and the facility certification. The following are covered settings:

- 1) Psychiatric Hospital Service
  - A) Client Age: 65 and over
  - 1) Client Diagnosis: Any
  - 1) Facility Certification: Title XVIII (Medicare)

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- B) Client Age: Under 21 or up to age 22 when services were being received immediately prior to attaining age 21 and the treatment plan includes re-entry into the community
- i) Client Diagnosis: Mentally Ill
  - ii) Facility Certification: Joint Commission on the Accreditation of Healthcare Organizations (JCAHO)
- 2) Medical/Surgical Services
- A) Client Age: No Restrictions
  - B) Client Diagnosis: No Restrictions
  - C) Facility Certification: Title XVIII (Medicare)
- 3) Skilled Nursing Facility (SNF), Intermediate Care Facility (ICF) and Intermediate Care Facility for the Mentally Retarded (ICF-MR) Services
- A) Client Age: 65 and over
  - i) Client Diagnosis: No Restriction
  - ii) Facility Certification: By Department of Public Health for Title XX (Medicaid)
- B) Client Age: Up to 65
- i) Client Diagnosis: Mentally Retarded
  - ii) Facility Certification: By Department of Public Health and Title XX (Medicaid)
- C) Client Age: Under 21
- i) Client Diagnosis: Mentally Ill ONLY
  - ii) Facility Certification: JCAHO SNF/MR (Does not include ICF-MR)

h) Eligibility exists only when the DMGDD patient has not been adjudicated incompetent or if there has been an adjudication of incompetency, a conservator has been legally appointed.

i) Application shall be made for a patient age 21 or over by the patient, conservator or by someone acting responsibly in the patient's behalf. Application for patients under age 21 shall be made by the patient's parent or parents (parents), legal guardian or conservator.

j) If the parents are unwilling to apply for assistance, the patient is not eligible.

(Source: Amended at 20 Ill. Reg. 14834, effective NOV 01 1996)

## Section 110.15 Local Office Action on Application for Public Assistance

Upon a person's making application for Public Assistance at a local office, the local office shall consider that person's eligibility for all forms of Public Assistance according to the appropriate eligibility rules for assistance programs, unless the person has indicated in writing that he or she does not want to apply for certain programs. A signed original application form on which the person indicates the program or programs for which he or she does or

## DEPARTMENT OF PUBLIC AID

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Does not want to apply constitutes the person's written statement. The words "Public Assistance" constitute the assistance provided by the Department as specified in Articles III, IV, V, VI and VII of the Public Aid Code, namely, Aid to the Aged, Blind and Disabled, Aid to Families with Dependent Children, Refugee Assistance Program, the Department's Medical Program, and the Department's Vocational Program. The Department's Medical Program is administered by the Department's Medical Services Unit. Upon a person's making application for Public Assistance at a local office, the local office shall also consider that person's eligibility for the United States Department of Agriculture's Food Stamp Program (unless the applicant has indicated in writing that he or she does not want Food Stamps) and for such other programs as the Department may from time to time be administering pursuant to the laws and regulations of the State and the federal government. A signed original application form on which the person indicates whether or not he or she wants to apply for Food Stamps or any other programs which the Department may offer at any given time constitutes the person's written statement.

(Source: Amended at 20 Ill. Reg. 14834, effective NOV 01 1996)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Long Term Care Reimbursement Changes

- 2) Code Citation: 89 Ill. Adm. Code 153

- 3) Section Numbers: Adopted Action:

153.100 Amendment

153.125 New Section

- 4) Statutory Authority: Section 12-15 of the Illinois Public Aid Code [305 ILCS 5/12-13]

- 5) Effective Date of Amendments: November 1, 1996

- 6) Does this rulemaking contain an automatic renewal date? No

- 7) Do these Amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: November 1, 1996

- 9) Notice of Proposal Published in Illinois Register: July 12, 1996 (20 Ill. Reg. 8937)

- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

- 11) Differences between proposal and final version: Several changes have been made in the proposed rulemaking during the public comment period.

## Section 153.100

All of the striking has been deleted from the original subsections (b), (f), (g), (i), (m), and (o), and those subsections are being retained.

Subsections that had been newly labeled (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) have been returned to their previous labeling.

The new subsections (m) and (n) have been relabeled as subsections (s) and (t) respectively.

The newly labeled subsection (o) has been relabeled as subsection (u).

## Section 153.125

In the first line, "153.100" has been changed to "Section 153.100".

No other changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

## DEPARTMENT OF PUBLIC AID

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- 13) Will these Amendments replace Emergency Amendments currently in effect?  
Yes

- 14) Are there any Amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: These amendments are necessary to implement the State's fiscal year 1997 budget plan. For services provided from July 1, 1996, through December 31, 1996, the Department will continue to fund nursing facilities and intermediate care facilities for persons with developmental disabilities. For services provided on or after January 1, 1997, the rates in effect on July 1, 1996, including nursing facility rates paid for exceptional care, will be increased by 6.8 percent. For day training services provided on or after July 1, 1996, rates will be increased by three percent. Additionally, for services provided on or after July 1, 1996, long term care facilities which are located in an area which has changed geographic designation due to unique labor force factors shall have rates recalculated based upon the ceilings and norms of the newly designated geographic area. Related amendments are being proposed in 89 Ill. Adm. Code 140 regarding these geographic designation changes.

These changes are expected to result in an increase in annual aggregate expenditures of approximately \$8.1 million. The anticipated increase in spending for nursing facilities and day training is \$36.9 million; for ICF/MR facilities and day training, \$11 million; and for geographic classification changes, \$155,000.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones

Address: Bureau of Rules and Regulations

110 South Grand Avenue East, Third Floor

Springfield, Illinois 62762

Telephone: (217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF PUBLIC AID

## SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

## PART 153

## LONG TERM CARE REIMBURSEMENT CHANGES

## Section 153.100 Reimbursement for Long Term Care Services

## 153.125 Long Term Care Facility Rate Adjustment

## 153.150 Quality Assurance Review (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, and VI and Section 12-13 of the Illinois Public Aid Code [305 ICS 5/Acts. III, IV, V, and VI and 12-13] and implementing Article III of the Illinois Health Finance Reform Act [20 ICS 2215/Act. III].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for a maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 18667, effective November 1, 1994; emergency amendment at 18 Ill. Reg. 10785, effective November 30, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 51621, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective NOV 01 1996.

## Section 153.100 Reimbursement for Long Term Care Services

- a) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 140.144 and 147 for reimbursement of long term care services, effective January 18, 1994, reimbursement rates for long term care facilities (SNF/ICF and ICF/NR) and day training providers will remain at the levels in effect on January 18, 1994, except as otherwise provided in this Section.
- b) The results of Inspection of Care (IOC) surveys for which the exit conference is completed prior to January 18, 1994, will be processed and reflected in facility rates effective with the annual mid-year rate adjustment and consisting of the following:
  - 1) Adjustments to rates for SNF/ICF and ICF/NR facilities will be provided in 89 Ill. Adm. Code 147.100 to reflect for these surveys and other surveys set forth in this Section.
  - c) Capital and support rates in effect on January 18, 1994, will be adjusted based on final audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590.
  - d) Capital rates will be increased for major capital improvements in accordance with 89 Ill. Adm. Code 140.560(c) and (e).
  - e) New facilities which are assigned median rates in accordance with 89 Ill. Adm. Code 140.560(b) will have rates recalculated based upon

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## receipt of their first cost report and first IOC survey.

- f) Rates may change based upon an interim IOC conducted at the facility's first 90 days prior to and not later than January 18, 1994. The interim IOC request must include justification and documentation which supports one of the criteria set forth in 89 Ill. Adm. Code 147.150(d).
- g) Requests for interim IOCs received through January 18, 1994, will be processed in accordance with 89 Ill. Adm. Code 147.150(d).
- h) Interim IOCs may be conducted, at the facility's written request, if there has been a change in the Medicaid census since the last IOC survey in accordance with 89 Ill. Adm. Code 147.150(d), except that the requirement that the request must be made within 180 days after the last IOC, need not be met. The written request must contain documentation supporting the change in Medicaid census.
- i) The Department reserves the right to initiate interim IOC surveys, if necessary, based upon a significant reduction in the level of resident care or for the health and safety concerns of residents.
- j) Any rate adjustments that result from an interim IOC conducted under this Section will have an effective date of the first day of the month following the date of the interim IOC.
- k) Requests for IOCs upon which rate determinations are based upon a Medicaid resident being transferred from a State operated developmentally disabled facility to a community setting will be considered on a case-by-case basis.
- l) Fiscal year 1996 support rates may change based on the first cost report filed by new ownership reflecting six months or more of the new ownership's operation for any facility which changed ownership between July 1, 1992, and January 18, 1994. Only changes in ownership in arms-length transactions between unrelated parties will be recognized for this rate change. The new support rate for those facilities will be calculated in accordance with 89 Ill. Adm. Code 140.560 and 140.561. Support rates for facilities which qualify under this exception will not be decreased by the provisions in this Section. The capital rates of facilities which changed ownership between July 1, 1992, and January 18, 1994, will not be subject to the provisions of 89 Ill. Adm. Code 140.571(b)(4) and (5) and 140.571(b)(4), but may still be affected by the provisions of subsection (d) of this Section.
- m) For those for-profit facilities whose fiscal year 1994 capital rate does not include a real estate tax component because it is based upon a non-profit facility's cost report, effective July 1, 1995, the real estate tax component will be added to the capital rate based upon the fiscal year 1994 median real estate tax rate for the MSA in which the home is located.
- n) If a non-profit facility changes ownership on or after July 1, 1995, and the new owner is a for-profit facility, the real estate tax component will be added to the capital rate effective with the change

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of ownership as recognized by the Illinois Department of Public Health. The real estate tax component will be added at the HSA median rate in effect for the month in which the real estate tax becomes effective.

o) For those non-profit facilities whose fiscal year 1994 capital rate includes a real estate tax component based upon a for-profit facility's cost report, effective July 1, 1995, the real estate tax component of the capital rate will be removed (unless the non-profit facility rents the home from an unrelated for-profit entity).

p) If a for-profit facility changes ownership on or after July 1, 1995, and the new owner is a non-profit facility, the real estate tax component will be removed from the capital rate effective with the date of change in ownership as recognized by the Illinois Department of Public Health. The real estate component of the capital rate for a non-profit facility that rents the facility from an unrelated for-profit entity.

q) Rates may change based upon verification of the delivery or non-delivery of psychiatric rehabilitation services to individuals with mental illness residing in nursing facilities. Psychiatric rehabilitation services program reimbursement will be dependent upon the facility meeting all criteria specified in 89 Ill. Adm. Code 147.300 through 147.345.

r) An add-on of \$1.00 per resident day will be paid for emergency dental services, including services needed to treat an episode of acute pain in the mouth, including but not limited to, dental abscesses, cracked teeth, or any other problem of the oral cavity, appropriately treated by a dentist that requires immediate attention.

s) Training provider rates shall be increased by three percent for services provided on or after July 1, 1996.

t) Effective for services provided on or after July 1, 1996, facilities which are located in an area which has changed geographic designation due to unique labor force factors shall have rates recalculated based upon the callings and norms of the newly designated geographic area.

u) This section shall be automatically repealed effective June 30, 1997.

(Source: Amended at 20 Ill. Reg. **14840**, effective NOV 01 1996.)

## Section 133.125 Long Term Care Facility Rate Adjustment

Notwithstanding the provisions set forth in Section 133.100, long term care facility (LTCF) and ICF/MR rates established on July 1, 1996, shall be increased by 6.8 percent for services provided on or after January 1, 1997.

(Source: Added at 20 Ill. Reg. **14840**, effective NOV 01 1996.)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers:  
 140-80 Amendment  
 140-84 Amendment  
 140-555 Amendment  
 140-560 Amendment  
 140-561 Amendment  
 140-566 Amendment  
 140-578 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: October 31, 1996

6) Does this rulemaking contain an automatic renewal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: October 31, 1996

9) Notice of Proposal Published in Illinois Register:

Sections 140.80 through 140.578

July 12, 1996 (20 Ill. Reg. 8939)

Section 140.566

August 2, 1996 (20 Ill. Reg. 10286)

10) Has ICAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version:

Sections 140.80 through 140.578

Several changes have been made in the text of the proposed rulemaking during the public comment period.

In the last sentence of Section 140.80(b), the comma after "1995" has been deleted.

In Section 140.80(1), "Public Act 89-499" has been changed to "P.A. 89-499".

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In Section 140.84(k)(5), the new language pertaining to the Illinois Department of Veterans' Affairs has been deleted. These proposed changes had been made with the understanding that the Nursing Home Care Act would be amended to define State facilities operated by, or under, the authority of the Department of Veterans' Affairs as facilities which are subject to the nursing home licensing regulations of the Illinois Department of Public Health. The proposed amendments would have been necessary to specify that the Department of Veterans' Affairs facilities are subject to the licensing regulations of the Department of Public Health. However, the amendments to the Nursing Home Care Act were not signed, and the proposed changes to subsection (k)(5) are unnecessary.

In Section 140.561(c) and (e), commas have been added after "i.e.".

## Section 140.566

In subsection (b)(3), "statewide" has been changed to "Statewide".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these Amendments replace Emergency Amendments currently in effect?

## Sections 140.80 through 140.578

## Section 140.566

Yes

No

- 14) Are there any Amendments pending on this Part? Yes

## Section Numbers Proposed Action Illinois Register Citation

140.569 Amendment July 26, 1996 (20 Ill. Reg. 9810)

- 15) Summary and Purpose of Amendments:

## Sections 140.80 through 140.578

These amendments concern several of the Department's reimbursement methodologies for services under the Medical Assistance Program which are being filed in conjunction with the State's budget plan for fiscal year 1997.

In Section 140.80, the adopted changes allow for a reduction in the annual assessment imposed upon each hospital provider by an amount equal to approximately one-fourth of the assessment imposed during fiscal year 1996. These changes are also being made in response to concerns expressed by providers of hospital services. New appropriations to the General Revenue Fund will be utilized to provide full hospital funding.

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Revisions to Sections 140.555, 140.560, 140.561 and 140.578 change the term "Health Service Area (HSA)" to "geographic area". These changes are being made in conjunction with related amendments to 99 Ill. Adm. Code 153.125 that provide for a reimbursement increase of 6.8 percent for long term care facilities, effective on or after January 1, 1997. Modification of the Department's geographic classification methodology is required to implement these amendments. The amendments will align the alignment of HSAs into geographic areas in order to effectively redefine boundaries used in the rate setting base for rates established July 1, 1996. These amendments are expected to result in additional spending in the amount of approximately \$155,000. This amount is included in the rate enhancement estimate for long term care facilities that is expected to increase annual aggregate expenditures by approximately \$48.1 million.

## Section 140.566

These amendments provide for greater flexibility in the rate setting process for placements in out-of-state long term care facilities. Currently, Section 140.566 allows the Department to pay the lesser of the Medicaid rate paid by the state in which the facility is located, the private pay rate of the facility or the Illinois Medicaid Statewide average rate for clients requiring the same level of care. Under the adopted rulemaking, payments to out-of-state facilities will be based on the rate paid by the state in which the facility is located, with the foregoing criteria taken into consideration.

These changes are necessary because of the increasing numbers of clients with traumatic brain injuries (TBI) who need placements in long term care facilities. In Illinois, there are no specific rates for services in facilities that care exclusively for individuals with TBI because such care involves extensive therapy that is specifically designed according to each person's needs. Regular nursing facility rates do not adequately cover such individualized and extensive therapy programs. The amendments will enable the Department to negotiate with out-of-state facilities to reach agreements regarding appropriate payment levels for TBI clients.

Other changes to Section 140.566 allow the Department of Mental Health and Developmental Disabilities (DMDD) as a payer for services since some TBI clients are placed in ICF/MR facilities and DMDD is responsible for the ICF/MR program.

These amendments are not expected to result in any budgetary changes.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Joanne Jones  
Bureau of Rules and Regulations

DEPARTMENT OF PUBLIC AID  
NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-WAIV for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance for a Pregnant Woman Who Does Not Qualify for AFDC-WAIV or AFDC-Medicaid
- 140.9 Categorically Eligible Pregnant Women if Child Were Already Born Or Who Do Not Qualify as Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims
- 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
- 140.22 Magnetic Tape Billings
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited



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140.27 Assignment of Vendor Payments  
 140.28 Record Requirements for Medical Providers  
 140.30 Audits  
 140.31 Emergency Services Audits  
 140.32 Prohibition on Participation, and Special Permission for Participation  
 140.33 Publication of List of Terminated, Suspended or Barred Entities  
 140.35 False Reporting and Other Fraudulent Activities  
 140.40 Prior Approval for Medical Services or Items  
 140.41 Prior Approval in Cases of Emergency  
 140.42 Limitation on Prior Approval  
 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained  
 140.45 Retained Eligibility Verification (REV) System  
 140.46 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
 140.71 Voucher Advance Payment and Expedited Payments  
 140.72 Drug Manual (Recodified)  
 140.73 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
 140.80 Hospital Provider Fund  
 140.80 Developmentally Disabled Care Provider Fund  
 140.82 Long Term Care Provider Fund  
 140.84 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund  
 140.94 Mental Subacute Long Term Care Provider Participation Fee Trust Fund  
 140.95 Hospital Services Not Covered By Physicians  
 140.96 General Requirements (Recodified)  
 140.97 Special Requirements (Recodified)  
 140.98 Covered Hospital Services (Recodified)  
 140.99 Hospital Services Not Covered (Recodified)  
 140.100 Limitation On Hospital Services (Recodified)  
 140.101 Transplants (Recodified)  
 140.102 Heart Transplants (Recodified)  
 140.103 Liver Transplants (Recodified)  
 140.104 Bone Marrow Transplants (Recodified)  
 140.106 Disproportionate Share Hospital Adjustments (Recodified)  
 140.110 Payment for Inpatient Services for GA (Recodified)  
 140.116 Hospital Outpatient and Clinic Services (Recodified)  
 140.118 Hospital Services During Fiscal Year 1992 (Recodified)  
 140.200 Payment for Hospital Services During Fiscal Year 1992 (Recodified)  
 140.201 Payment for Hospital Services During Fiscal Year 1993 (Recodified)  
 140.202 Limits on Length of Stay by Diagnosis (Recodified)  
 140.203 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)  
 140.300 Compayments (Recodified)  
 140.350 Payment Methodology (Recodified)  
 140.360

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140.361 Non-Participating Hospitals (Recodified)  
 140.362 Pre July 1, 1989 Services (Recodified)  
 140.363 Post June 30, 1989 Services (Recodified)  
 140.364 Payment for Services (Recodified)  
 140.365 Base Year Costs (Recodified)  
 140.366 Restructuring Adjustment (Recodified)  
 140.367 Inflation Adjustment (Recodified)  
 140.368 Volume Adjustment (Recodified)  
 140.369 Groupings (Recodified)  
 140.370 Rate Calculation (Recodified)  
 140.371 Payment (Recodified)  
 140.372 Review Procedure (Recodified)  
 140.373 Utilization (Recodified)  
 140.374 Alternatives (Recodified)  
 140.375 Exemptions (Recodified)  
 140.376 Utilization, Case-Mix and Discretionary Funds (Recodified)  
 140.377 Definitions of Substance Abuse Services (Recodified)  
 140.380 Definitions (Recodified)  
 140.391 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.392 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.393 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section  
 140.400 Payment to Practitioners, Nurses and Laboratories  
 140.401 Physicians' Services  
 140.402 Covered Services By Physicians  
 140.411 Services Not Covered By Physicians  
 140.412 Limitation on Physician Services  
 140.413 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians  
 140.414 Optometric Services and Materials  
 140.416 Limitations on Optometric Services  
 140.418 Department of Corrections Laboratory  
 140.420 Dental Services  
 140.421 Limitations on Dental Services  
 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists  
 140.423 Podiatry Services  
 140.424 Limitation on Podiatry Services  
 140.426 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry  
 140.427 Chiropractic Services  
 140.428

DEPARTMENT OF PUBLIC AID  
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140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Laboratory Services
140.431	Services Not Covered by Independent Laboratory
140.432	Limitations on Independent Laboratory Services
140.433	Payment for Laboratory Services
140.434	Record Requirements for Independent Laboratories
140.435	Nurse Services
140.436	Pharmacy Services
140.437	Pharmacy Services Not Covered
140.441	Prior Approval of Prescriptions
140.442	Filling of Prescriptions
140.443	Compounded Prescriptions
140.444	Legend Prescription Items (Not Compounded)
140.445	Over-the-Counter Items
140.446	Reimbursement
140.447	Returned Pharmacy Items
140.448	Payment of Pharmacy Items
140.449	Record Requirements for Pharmacies
140.450	Delivery of Pharmacy Items
140.451	Definition of Pharmacy Services
140.452	Types of Mental Health Clinic Services
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<sup>9</sup> Reg. 3620, effective February 28, 1994; amended at 18 III. Reg. 4250, effective April 11, 1995; emergency amendment at 18 III. Reg. 4937, effective March 4, 1994; amended at 18 III. Reg. 5951, effective April 1, 1994; emergency amendment at 18 III. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 III. Reg. 5939, effective April 4, 1995; amended at 18 III. Reg. 11224, effective July 1, 1994; amended at 18 III. Reg. 14126, effective August 9, 1994; amended at 18 III. Reg. 16675, effective November 19, 1994; amended at 18 III. Reg. 18059, effective December 19, 1994; amended at 19 III. Reg. 1082, effective January 20, 1995; amended at 19 III. Reg. 2933, effective March 1, 1995; emergency amendment at 19 III. Reg. 3529, effective April 11, 1995; amended at 19 III. Reg. 5663, effective April 11, 1995; amended at 19 III. Reg. 7919, effective June 5, 1995; emergency amendment at 19 III. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 III. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 III. Reg. 10272, effective July 1, 1995, for a maximum of 150 days; amended at 19 III. Reg. 10899, effective September 5, 1995; for a maximum of 150 days; amended at 19 III. Reg. 13049, effective October 6, 1995; amended at 19 III. Reg. 14933, effective October 6, 1995, for a maximum of 150 days; amended at 19 III. Reg. 15441, effective October 26, 1995; amended at 19 III. Reg. 15692, effective November 6, 1995; amended at 19 III. Reg. 16577, effective November 28, 1995; amended at 20 III. Reg. 1210, effective December 29, 1995; amended at 20 III. Reg. 4345, effective March 4, 1996; amended at 20 III. Reg. 5958, effective April 5, 1996; amended at 20 III. Reg. 6392, effective May 6, 1996; amended at 20 III. Reg. 7922, effective May 31, 1996; amended at 20 III. Reg. 9081, effective June 28, 1996; emergency amendment at 20 III. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 III. Reg. 11332, effective August 1, 1996; amended at 20 III. Reg. 11845, effective August 1, 1996.

## SUBPART C: PROVIDER ASSESSMENTS

## Section 140.80 Hospital Provider Fund

- a) Purpose and Contents
  - 1) The Hospital Provider Fund ("Fund") was created in the State Treasury upon enactment of Public Act 87-961, Public Act 88-987 and Public Act 89-21 and Public Act 89-492. Interest earned by the Fund shall be credited to the Fund. The Fund shall operate as a revolving fund. The Fund shall be used to finance the program by the General Assembly.
  - 2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and Public Act 87-961, as amended by Public Act 88-987, and Public Act 89-21 and Public Act 89-492.
  - 3) The Fund shall consist of:
    - A) monies collected or received by the Department under subsection (b) being:

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- B) All federal matching funds received by the Department as a result of the Federal Government's contribution to the Department that are attributable to the Department's contribution to the Federal Government.
- C) Any interest of penalty levied in conjunction with the administration of the Fund;
- D) All other monies received for the Fund from any other source, including interest earned thereon;
- E) All monies transferred from the Hospital Services Trust Fund; and
- F) All monies transferred from the Tobacco Products Tax Act.

## b) Provider Assessments

Effective July 1, 1994, through June 30, 1996, an annual assessment is imposed upon each hospital provider in an amount equal to the provider's adjusted gross hospital revenue, as described in subsection (1)(1) of this Section, for the most recent calendar year ending on the last day of the fiscal year, multiplied by the Provider's Savings Rate. Effective July 1, 1996, through March 31, 1997, an assessment is imposed in an amount equal to three-fourths of the Provider's adjusted gross hospital revenue for calendar year 1995 multiplied by the Provider's Savings Rate.

- 1) Effective July 1, 1994, through June 30, 1995, the Provider's Savings Rate is obtained by multiplying 1.88 percent by a fraction, the numerator of which is the Maximum Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which equals the Maximum Section 5-2 Contribution (see subsections (1)(2), (8) and (10) of this Section).

- 2) Effective July 1, 1995, through March 31, June--30, 1997, the Provider's Savings Rate is obtained by multiplying 1.25 percent by a fraction, the numerator of which is the Maximum Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which equals the Maximum Section 5-2 Contribution (see subsections (1)(2), (8) and (10) of this Section).

- 3) The Department reserves the right to audit the reported data. The Department shall notify hospital providers of the Provider's Savings Rate by mailing a notice to each provider's last known address as reflected by the records of the Department.

## c) Payment of Assessment Due

- 1) The assessments imposed in subsection (b) above shall be due and payable in quarterly installments, each equalling one-fourth of the assessment for the year, on September 30, December 31, March 31, and May 31 of the year, modified to accommodate weekends and holidays, except that for fiscal year 1997 (July 1, 1996 through June 30, 1997), the assessment imposed shall be due and payable in three equal installments on September 30, December 31, and March 31. Providers who are not required to make quarterly payments shall make due assessments payments postmarked on the due date will be considered as paid on time.
- 2) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

- d) Reporting Requirements, Penalty, and Maintenance of Records

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- 1) After December 31 of each year, and on or before March 31 of the succeeding year, every hospital provider subject to an assessment under subsection (b) above shall file a report with the Department of Public Aid, which shall be a form prescribed by the Department. The report shall include the adjusted gross hospital revenue from the calendar year just ended and shall be utilized by the Department to calculate the assessment for the State fiscal year commencing on the next July 1. If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, a separate report shall be filed for each hospital. In the case of a hospital provider existing as a corporation or legal entity other than an individual, the report filed by it shall be signed by its president, vice-president, secretary, or treasurer or by its properly authorized agent.
- 2) If the hospital provider fails to file its report for a State fiscal year, the assessment for that year shall be assessed as if the report had been filed on the date of the report, there shall be no interest or penalty imposed by the Department for reasonable cause, added to the assessment imposed in subsection (b) above a penalty to the assessment equal to 25 percent of the assessment imposed for the year.
- 3) Every hospital provider subject to an assessment under subsection (b) above shall keep records and books that will permit the determination of adjusted gross hospital revenue on a calendar year basis. All such books and records shall be maintained for a minimum of three years following the filing date of the assessment report and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.
- 4) Amended Assessment. If a hospital provider, after the exception of amended assessment has been made, is required to file an amended assessment, the report shall be filed in accordance with subsection (d)(5) or (6) below, an amended assessment report must be filed within 30 calendar days of the original report due date. The amended report must be accompanied by a letter identifying the changes and the justification for the amended report. The provider will be advised of any adjustments to the original annual assessment amount through written notification from the Department. Penalties may be applied to the amount underpaid due to a filing error.
- 5) Submission of Financial Audit Statements. All hospital providers are required to submit a copy of all financial statements audited by an external, independent auditor, to the Department within 30 days after the close of the fiscal year. If the provider's financial statements are audited by an external auditor, the audit shall coincide with the December 31 ending date for the assessment report, the hospital must submit all financial audits covering the assessment report period. An amended assessment report must accompany such external financial audit statements if the data submitted on the

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Initial assessment report changes based upon the findings of such external financial audits and as indicated in the audited external financial statements. Penalties may be applied to the amount underpaid due to a filing error.

- 6) Reconduction of Adjusted Tax. If the Department, through an audit conducted by the Department or its agent within three years after the end of the fiscal year in which the assessment was due, changes the assessment liability of a hospital provider, the hospital provider may request a review or reconsideration of the assessment within 30 days after the Department's notification of the change in assessment liability. Requests for reconsideration of the assessment shall be considered and shall be considered if such requests are not postmarked on or before the end of the 30 day review period. Penalties may be applied to the amount underpaid due to a filing error.

e) Procedure for Partial Year Reporting/Operating Adjustments

- 1) Cessation of business during the fiscal year in which the assessment is being paid. If a hospital provider ceases to conduct, operate, or maintain a hospital for which the person is subject to assessment under subsection (b) above, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (b) by a fraction the numerator of which is the number of days in the fiscal year in which the cessation occurs and the denominator of which is 365. The person shall file a final, amended report with the Department not more than 30 calendar days after the cessation, reflecting the adjustment, and shall pay with the final return the assessment for the year as so adjusted, to the extent not previously paid.

- 2) Commencing of business during the fiscal year in which the assessment is being paid. A hospital provider who commences conducting, operating, or maintaining a hospital for which the person is subject to assessment under subsection (b) above, shall file an initial report for the State fiscal year in which the assessment is being paid, not more than 30 calendar days after the date the person commences conducting, operating, or maintaining the hospital, which shall be paid by the hospital provider to the Department in equal installments on the due date of the initial assessment determination and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment determination. In determining the annual assessment amount for the provider the Department shall develop hypothetical annualized revenue projections based upon geographic location, facility size and patient case mix. The assessment determination made by the Department is final.

- 3) Partial Calendar Year Operation Adjustment. For a hospital provider that did not conduct, operate, or maintain a hospital for which the person is subject to assessment during the period, the assessment for the following State fiscal year shall be

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annualized based on the provider's actual revenues for the portion of the reporting period the hospital was operational (dividing adjusted gross hospital revenue by the number of days the hospital was in operation and then multiplying the amount by 365). Revenues realized by a prior provider from the same hospital during the calendar year shall be used in the annualization equation, if available.

- 4) Change in Ownership and/or Operators. The full quarterly assessment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties) shall remain with the hospital provider. The amount of the assessment shall be based on the revenue of the hospital provider currently operating or maintaining the hospital regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1) of this Section.

f) Penalties

- 1) Any hospital that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department, a penalty of 10 percent of the full amount of the installment not paid on or before the due date, plus five percent of the portion thereof remaining unpaid on the last day of each month thereafter, not to exceed 100 percent of the installment amount not paid on or before the due date.
- 2) Within 45 days from the due date, the Department may begin recovery actions against delinquent hospitals participating in the Medicaid Program. Payments may be withheld from the hospital until the entire assessment, including any penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable repayment schedule cannot be reached or if a hospital fails to comply with the schedule, the Department may suspend the hospital's participation in the program, suspend interest and penalty by recouping the amount or a portion thereof from the hospital's future payments from the Department. The provider may appeal this recoupment in accordance with Department rules contained in 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) above will continue to accrue during the recoupment process. Recoupment proceedings against the same hospital two times in a fiscal year may be cause for termination from the Program. Failure by the Department to initiate recoupment activities within 45 days shall not reduce the provider's assessment liability. This shall preclude the Department from taking action at a later

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- date.
- 3) If the hospital does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months after the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.
- g) Delayed payment - Groups of Hospitals  
The Director may establish delayed payment of assessments and/or waive the payment of interest and penalties for groups of hospitals such as disproportionate share hospitals or all other hospitals when:
- 1) the State delays payments to hospitals due to problems related to State cash flow;
  - 2) requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the assessment.
- h) Delayed payment - Individual Hospitals  
In addition to the provisions of subsection (g) above, the Director may delay assessments for individual hospitals that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c) above.
- i) Criteria. Delayed payment provisions may be instituted only under the following circumstances: Delayed payment provisions may be made only by qualified hospitals who meet all of the following requirements:
- A) the provider has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1) and (f)(2) above would impose severe and irreparable harm to the clients served. Circumstances which may create such emergencies include, but are not limited to, the following:
    - 1) Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the provider is unable to provide further services to its clients; or
    - ii) cash flow problems encountered by a provider which are unrelated to Department technical system problems and which result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.
  - B) the provider serves a significant number of clients under

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- the medical assistance program. "Significant" in this instance means:
- i) a hospital that serves a significant number of clients under the medical assistance program; significant in this instance means that the hospital qualifies as a disproportionate share hospital under 89 Ill. Adm. Code 148.120(a)(1) through 148.120(a)(5); or qualifies as a Medicare DSH hospital under the current federal guidelines.
  - ii) a government-owned facility, which meets the cash flow criterion under subsection (b)(1)(A)(ii) above.
  - iii) a hospital which was filed for Chapter 11 bankruptcy, and which meets the cash flow criteria under subsection (b)(1)(A)(ii) above.
- C) the provider must file a delay of payment request as defined in subsection (b)(3)(A) below, and the request must include a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:
- i) the ratio of current assets divided by current liabilities is greater than 1.0;
  - ii) cash and cash equivalents and long term investments combined do not exceed the total of accrued wages payable and assessment payment. Long term investments which are unavailable for expenditure for current operations will not be used in this calculation.
- D) the provider must show evidence of denial of an application to borrow assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.
- E) the provider must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions: (a) for institution of the delayed payment provisions;
- i) specific dates;
  - ii) the amount of payment which must be received on each specific date described;
  - iii) the interest or a statement of interest waiver as described in subsection (h)(5) below that shall be due from the provider as a result of institution of the delayed payment provisions;

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- iv) a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;
  - v) a certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signatory's knowledge; and
  - vi) such other terms and conditions that may be required by the Department.
- 2) A hospital which does not meet the above criteria may request a delayed payment schedule and/or the waiver of interest and penalties. The Director may approve the request, notwithstanding the hospital not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule and/or waiver of interest and penalties is approved, all other conditions of this subsection (h) shall apply.
- 3) Approval Process
- A) Approval Process to receive consideration for delayed payment (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the date designated by the Department. Providers will be notified, in writing, as to the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:
    - i) a certification of financial conditions creating the need for the delayed payment;
    - ii) supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C) of this Section, a denial of application to borrow the assessment as defined in subsection (h)(1)(D) of this Section and an explanation of the risk of irreparable harm to the clients; and
    - iii) specification of the specific arrangements requested by the provider.
  - B) The hospital shall be notified by the Department, in writing prior to the assessment due date, of the Department's intention to review the request for the waiver of interest and delayed payment provisions. An agreement shall be issued to

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- the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.
- 4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) of this Section may be waived upon approval of the provider's request for institution of delayed payment arrangements. The request must be received by the Department and the Department has received the signed agreement in accordance with subsection (h)(3)(B) above, such penalties shall be permanently waived for the subject quarter unless the provider fails to meet all of the terms and conditions of the agreement. In the event the provider fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.
- 5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(B) and (h)(2) above. The interest shall be calculated on the basis of the facility's current ratio as described in subsection (h)(1)(C) above, is 1.5 or less and the hospital meets the criteria in subsections (h)(1)(A) and (B) above. Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) above.
- 6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delayed payment agreement. The waiver of penalties described in subsection (h)(4) shall not apply to providers that have not satisfied the terms and conditions of any current delayed payment agreement.
- 7) Administration and Enforcement Provisions
- Pursuant to Section 5A-7 of P.A. 86-861, to the extent practicable, the Department shall administer and enforce P.A. 86-861, P.A. 88-882, and P.A. 89-21 and P.A. 89-109, and collect the assessments, interest, and penalty assessments imposed under the law, using procedures and penalty assessments imposed under the law, using procedures employed in its administration of this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA").
- 1) Exemptions
  - 2) Rural hospital, as defined in subsection (1)(11) below, shall be exempt from the assessment imposed under subsection (b),



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unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the provider shall pay the assessment imposed under subsection (b) above.

- 2) A hospital provider which is a county with a population of more than 3,000,000 that makes intergovernmental transfer payments as provided in Section 15-3 of P.A. 87-861, as amended by P.A. 88-85, P.A. 88-88 and P.A. 89-21, shall be exempt from the assessment imposed by subsection (b) above, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital shall pay the assessment imposed by subsection (b) above for all assessment periods beginning on or after July 1, 1992, and the assessment so paid shall be creditable against the intergovernmental transfer payments made by the hospital. The Department is authorized to transfer into an interagency agreement with a hospital organized under the University of Illinois Hospital Act and exempt from the assessment imposed under subsection (b) of this Section, to make intergovernmental transfer payments to the Department. Effective July 1, 1994, these payments shall be deposited into the University of Illinois Fund, as mandated under P.A. 88-554.
- 4) The Department is also authorized to enter into agreements with publicly owned or operated hospitals not described in subsections (3)(1) through (3)(3) above to make intergovernmental transfer payments to the Department. These payments shall be deposited into the Hospital Provider Fund.
- 5) Facilities operated by the Department of Mental Health and Development by subsection (b) above shall be exempt from the assessment imposed by subsection (b) above. P.A. 89-499 shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before the effective date of P.A. 89-499.
- 6) Definitions.
  - 1) As used in this Section, unless the context requires otherwise:
    - 1) "Adjusted gross hospital revenue" means the hospital provider's total gross patient charges less Medicare contractual allowances, but does not include gross patient revenue from skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act, or home health and hospice services and the portion of employee-owned long-term care beds, as described in subsection (1)(12) below, is considered to be part of the provider's gross hospital revenue. Revenue not related to patient care, such as, investment income, gift shop, cafeteria, or parking lot revenue is not considered as patient revenue. Adjusted gross hospital revenue must be reported on an accrual basis for the assessment reporting period. All patient revenue accrued during the assessment reporting period must be

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- included even though reimbursement may occur after the assessment reporting period. Patient revenue must be reported on a basis that is consistent with methods used on the hospital's last two cost reports.
- 2) "Cigarette Tax Contribution" is the sum of the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 2(a) of the Cigarette Tax Act, plus the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 5A-3(c) of Public Act 88-88, as amended by Public Act 89-21.
  - 3) "Department" means the Illinois Department of Public Aid.
  - 4) "Fund" means the Hospital Provider Fund.
  - 5) "Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, or a not-for-profit or private and whether organized for profit or not-for-profit.
  - 6) "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.
  - 7) "Intergovernmental transfer payment/Intergency Agreement" means the payments established under Section 15-3 of P.A. 87-861, as amended by P.A. 88-85, P.A. 88-88 and P.A. 88-554, and includes without limitation payments payable under that Section for July, August and September of 1992.
  - 8) "Maximum Section 5A-2 Contribution" is the total amount of tax imposed by Section 5A-2 of Public Act 88-88, as amended by Public Act 89-21, in the previous State fiscal year on providers subject to the assessment imposed by subsection (b) above, multiplied by a fraction the numerator of which is adjusted gross hospital revenues reported to the Department by providers subject to the assessment imposed by subsection (b) for the previous State fiscal year and the denominator of which is adjusted gross hospital revenues reported to the Department by providers subject to the assessment imposed by subsection (b) for the State fiscal year immediately preceding the previous State fiscal year.
  - 9) "Medicaid contribution" means the difference between charges at established rates and the amount payable to the provider by Medicare, as appropriate, pursuant to agreements between the hospital and the Health Care Financing Administration.
  - 10) "Provider's Savings Rate" effective July 1, 1994, is 1.88 percent multiplied by a fraction, the numerator of which is the Maximum

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Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which is the Maximum Section 5A-2 Contribution. Effective July 1, 1995, through March 31, 1997, the Provider's Savings Rate is 1.25 percent multiplied by the same fraction as described above.

## 11) "Rural hospital" means a hospital that is:

- A) located outside a metropolitan statistical area; located 15 miles or less from a county that is outside a metropolitan statistical area; and
- B) not providing medical, surgical, or obstetrical services and had a combined approved total bed capacity of 75 or fewer beds in these two service categories as of the effective date of P.A. 88-88 (July 14, 1993), as determined by the Illinois Department of Public Health; or

## C) qualified as a rural hospital by meeting subsection (1)(11)(A) or (B) above as of July 14, 1993.

12) The Illinois Department of Public Health must have been notified in writing of any changes to a facility's bed count on or before the effective date of P.A. 88-88 (July 14, 1993). Appeals of the geographic designation of hospital provider shall be in accordance with the rules of the Department of Public Health.

13) "Swingbeds" means those beds for which a hospital provider has been granted an approval from the federal Health Care Financing Administration to provide post-hospital extended care services (42 CFR 409.30, October 1, 1991) and be reimbursed as a swing-bed hospital (42 CFR 413.114, October 1, 1991).

(Source: Amended at 20 Ill. Reg. **14845**, effective **06-3-1996**)

## Section 140.84 Long Term Care Provider Fund

## a) Purpose and Contents

- 1) The Long Term Care Provider Fund was created in the State Treasury upon enactment of Public Act 87-861, Public Act 88-88 and Public Act 89-21. Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.

2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and Public Act 87-861, Public Act 88-88 and Public Act 89-21.

## 3) The Fund shall consist of:

- A) All monies collected or received by the Department under Public Act 87-861, Public Act 88-88 and Public Act 89-21.
- B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;

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- C) Any interest or penalty levied in conjunction with the administration of the Fund;
- D) All other monies received for the Fund from any other source, including interest earned thereon;
- E) All monies transferred from the Medicaid Long Term Care Provider Participation Fee Trust Fund; and
- F) All monies transferred from the Tobacco Products Tax Act.

b) License fee. On July 1, 1993, a nursing home license fee is imposed upon each nursing home provider in an amount equal to \$1.50 for each licensed nursing bed day for the calendar quarter in which the payment is due. All nursing beds subject to licensure under the Nursing Home Care Act or the Hospital Licensing Act, with the exception of swing-beds, as defined in subsection (k)(6) of this Section will be used to calculate the licensed nursing bed days for each quarter. This license fee shall not be billed or passed on to any resident of a nursing home operated by the nursing home provider. Changes in the number of licensed nursing beds will be reported to the Department quarterly, as described in subsection (g)(1) below. The Department reserves the right to audit the reported data.

c) 1) The license fee described in subsection (b) above shall be due and payable in quarterly installments, on September 10, December 10, March 10, and June 10 of the year, modified to accommodate weekends and holidays. Providers will be notified, in writing, of the quarterly due dates. License fee payments postmarked on the due date will be considered as paid on time.

2) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

3) County nursing homes directed and maintained pursuant to Section 5-1005 of the Counties Code must meet their license fee obligation by September 10 of each year. County nursing homes that do not meet their obligation have been obligated for the operation of the county nursing home in an amount at least equal to the amount of the license fee. County governments wishing to provide such certification must:

- A) Sign a certification form certifying that the funds represent expenditures eligible for Federal financial participation under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and that these funds are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds; to the Department once a Submit the certification documentation of the county budget showing the funds appropriated for the operation of the county nursing home. These documents must be submitted within 30 days after the final approval of the county

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budget--the county, budget-and/or-budgets-covering-the-State fiscal-year-of-July-1-1993-through-June-30-1995-must-be submitted-by-a-date-designated-by-the-Department;

- c) Submit the monthly claim form in the amount of the rate established by the Department minus any third party liability amount. This amount will be reduced by an amount determined by the amount certified and the number of months remaining in the fiscal year, prior to payment because a license fee payment; and

- d) Make records available upon request to the Department and/or the United States Department of Health and Human Services pertaining to the certification of county funds.

## d) Reporting Requirements, Penalty, and Maintenance of Records.

- 1) On or before the due dates described in subsection (c)(1), each nursing home provider subject to a license fee under subsection (b) of this Section shall file a report with the Department reflecting any changes in the number of licensed nursing beds occurring during the reporting quarter. The report shall be on a form prepared by the Department. The changes will be reported quarterly and shall be submitted with the revised quarterly license fee payment. The Department shall maintain the records described in subsection (b) above. All changes in licensed nursing beds will be effective upon approval of the change by the Illinois Department of Public Health. Documentation showing the change in licensed nursing beds, and the date the change was approved by the Illinois Department of Public Health, must be submitted to the Department of Public Aid with the licensed nursing bed change form. If a nursing home provider operates or maintains more than one nursing home, a separate report shall be filed for each facility. In the case of a nursing home provider existing as a corporation or legal entity other than an individual, the report filed by it shall be signed by its president, vice-president, secretary, or treasurer or by its properly authorized agent.
- 2) If a nursing home provider fails to file its report for a State fiscal year or before the due date of the report, there shall, unless waived by the Department for reasonable cause, be added to the license fee imposed in subsection (b) above a penalty fee equal to 25 percent of the license fee imposed for the year.
- 3) Every nursing home provider subject to a license fee under subsection (b) above shall keep records and books that will permit the determination of licensed nursing beds days on a quarterly basis. All such books and records shall be maintained for a minimum of three years following the filing date of the license fee report and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.

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- 4) Amended License Fee Reports. With the exception of amended license fee reports filed in accordance with subsection (d)(5) below, an amended license fee report must be filed within 30 calendar days after the original report due date. The amended report must be accompanied by a letter identifying the changes and the justification for the amended report. The provider will be advised of any adjustments to the original annual license fee amount through a written notification from the Department. Penalties may be applied to the amount underpaid due to a filing error.
- 5) Consideration of Adjusted License Fee. If the Department, through an audit conducted by the Department or its authorized agent, determines that a nursing home provider's assessment license fee was due, changes the license fee liability of a nursing home provider, the nursing home provider may request a review or reconsideration of the adjusted license fee within 30 days of the Department's notification of the change in license fee liability. Requests for reconsideration of the license fee adjustment shall not be considered if such requests are not postmarked on or before the end of the 30 day review period. Penalties may be applied to the amount underpaid due to a filing error.

## e) Procedure for Partial Year Reporting/Operating Adjustments

- 1) A nursing home provider who ceases to operate a license fee facility during the quarter in which the license fee is being paid and the closure of the facility is permanent shall be paid the license fee for the quarter in which the provider ceases to conduct, operate, or maintain a facility to which the person is subject to the license fee imposed under subsection (b) above, and for which the closure date for the facility has been set, shall file a final report with the Department on or before the due date for the quarter in which the closure is to occur. The report will reflect the adjusted number of days the facility is open during the reporting quarter and shall be submitted with the final quarterly payment. Example: A facility is set to close on September 24. On or before the due date for the reporting quarter of July 1 through September 30, the facility will submit a final report reflecting 86 days of the operation (July 1 through September 24) and the corresponding license fee payment.
- 2) Cessation of business after the quarterly due date. A nursing home provider who ceases to conduct, operate, or maintain a facility for which the person is subject to the license fee imposed under subsection (b) above, and for which closure occurs after the due date for the reporting quarter, but prior to the last day of the reporting quarter, shall file an amended final report with the Department within 30 days after the closure date. The amended report will reflect the number of days the facility was operational during the reporting quarter and the revised license fee amount. Upon verifying the data submitted on the

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amended report, the Department will issue a refund for the amount overpaid. Example: On December 10 a facility pays the license fee for January 1 through December 31. The facility reports that on December 27, an amended report reflecting 88 days, the actual number of days the facility was operational during the quarter (October 1 through December 27) must be filed with the Department.

3) Cessation of business prior to the quarterly due date. A nursing home provider who ceases to conduct, operate, or maintain a facility for which the person is subject to the license fee imposed under subsection (b) above, and for which closure occurs prior to the due date for the reporting quarter, shall file a final report with the Department within 30 days after the closure date. The final report will reflect the number of days the facility was operational during the quarter. The license fee for the quarter and the corresponding final license fee amount. Closure dates will be verified with the Department of Public Health, and if necessary adjustments will be made to the final license fee due. Example: Facility closes on January 17. On or before February 17, the facility must file a final report for the reporting quarter of January 1 through March 31. The report would reflect 17 days of operation (January 1 through January 17) during the quarter and must be accompanied by the final license fee payment for the facility.

4) Commencing of business during the fiscal year in which the license fee is being paid. A nursing home provider who commences conducting operations and maintaining a facility for which the person is subject to the license fee imposed under subsection (b) above, shall file an initial report for the reporting quarter in which the commencement occurs within 30 calendar days thereafter and shall pay the license fee under subsection (d) above.

5) Change in Ownership and/or Operators. The full quarterly assessment/license fee must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment/license fee amount (including past due assessment/license fees and any interest or penalties that may have accrued against the amount) rests on the nursing home provider, and shall remain with the nursing home provider, regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment/license fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment/license fee liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1) of this Section.

#### e) Penalties

1) Any nursing home provider that fails to pay the full amount of an installment when due, or fails to report a change in licensed

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nursing beds approved by the Department of Public Health prior to the due date of the installment, shall be charged, unless waived by the Department of Public Health, a penalty equal to five percent of the amount of the installment not paid. Example: On the due date, plus five percent of the portion thereof remaining unpaid on the last day of each month thereafter, not to exceed the 100 percent of the installment amount not paid on or before the due date.

2) Within 45 days from the due date, the Department may begin recovery actions against delinquent nursing home providers participating in the Medicaid Program. Payments may be withheld from the provider until the entire license fee, including any penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement is not reached, the Department reserves the right to suspend the outstanding license fee, interest and penalty by recouping the amount or a portion thereof from the provider's future payments from the Department. The provider may appeal this recoupment in accordance with the Department rules contained in 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) above will continue to accrue during the recoupment process. Recoupment proceedings against the same nursing home provider two times in a fiscal year may be cause for termination from the Program. Failure by the Department to initiate recoupment proceedings within 45 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

3) If the nursing home provider does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months after the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment - Groups of Facilities  
The Director may establish delayed payment of fees and/or waive the payment of penalties and interest in the following circumstances:  
1) The State delays payments to facilities due to problems related to State cash flow; or

2) a cash flow bond pool's or any other group financing plans' requests from providers for loans are in excess of its scheduled proceeds such that a significant number of facilities will be unable to obtain a loan to pay the license fee.

h) Delayed Payment - Individual Facilities

In addition to the provisions of subsection (g) above, the Director may delay license fees for individual facilities that are unable to make timely payments under this Section due to financial difficulties.

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No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the license fee was to have been received by the Department as described in subsection (c) above.

1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions shall be made only to qualified facilities who meet all of the following requirements:

- A) the facility has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which the institution of the delayed payment provisions is required and described in subsections (c)(1), (c)(2), (f)(1), (f)(2) and (f)(3) above would impose severe and irreparable harm to the clients served. Circumstances which may create such emergencies include, but are not limited to, the following:
  - i) Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the facility's ability to provide further services to clients is severely impaired;
  - ii) cash flow problems encountered by a facility which are unrelated to Department technical system problems and which result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients;
- B) the facility serves a significant number of clients under the Medical Assistance Program. Significant in this instance means:
  - i) 85 percent or more of their residents must be eligible for public assistance;
  - ii) a government-owned facility, which meets the cash flow criterion under subsection (h)(1)(A)(ii) above.
- C) the facility must file a delay of payment request as defined under subsection (h)(1)(C) below and the request must be based on financial statements which are audited and current assets, current liabilities and other data for a date which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of license fee payments will be denied if any of the following criteria are met:
  - i) the ratio of current assets divided by current liabilities is greater than 2.0;
  - ii) cash, short term investments and long term investments

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equal or exceed the total of accrued wages payable and the license fee payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation;

- iii) cash or other assets has been distributed during the previous 90 days to owners or related parties in an amount equal to or exceeding the license fee payment for dividends, salaries in excess of those allowable under Section 140.531 or payments for purchase of goods or services in excess of cost as defined in subsection (a)(3)(ii) above;
- D) the facility, with the exception of government owned facilities, must show evidence of denial of an application to borrow license fee funds through a cash flow bond pool or financial institutions such as a commercial bank. The financial institution must be 90 days old or less.
- E) the facility must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:
  - i) specific reason(s) for institution of the delayed payment provisions;
  - ii) specific dates on which payments must be received and the amount of payment which must be received on each specific date as described;
  - iii) the interest or a statement of interest waiver as described in subsection (h)(5) below that shall be due from the facility as a result of institution of the delayed payment provisions;
  - iv) a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;
  - v) a certification stating that all information submitted to the Department in support of the delayed payment provisions is true and accurate to the best of the signator's knowledge; and
  - vi) such other terms and conditions that may be required by the Department.
- 2) A facility which does not meet the above criteria may request a delayed payment schedule and/or the waiver of interest and penalties. The Director may approve the request, notwithstanding the facility not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the facility. If the request for a delayed payment schedule and/or waiver of



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Interest and penalties is approved, all other conditions of this subsection (h) shall apply.

## 3) Approval Process

A) In order to receive consideration for delayed payment provisions, facilities must submit their request in writing (telex) requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the due date designated by the Department. Providers will be notified, in writing, of the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered for payment. The request must be received by the due date designated by the Department. All requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:

- i) an explanation of the circumstances creating the need for the delayed payment provisions;
- ii) supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C) above; a denial of application to borrow the license fee as defined in subsection (h)(1)(D) above and an explanation of the risk of irreparable harm to the clients; and
- iii) specification of the specific arrangements requested by the facility.

B) The facility shall be notified by the Department, in writing prior to the license fee due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the facility for all approved requests. The agreement must be signed by the administrator, owner or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.

4) **Waiver of Penalties.** The penalties described in subsection (f)(1)(B) shall be waived if the facility requests that the facility's request for institution of delayed payment provisions. In the event a facility's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) above, such penalties shall be permanently waived for the subject quarter unless the facility fails to meet all of the terms and conditions of the agreement. In the event the facility fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.

5) **Interest.** Delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The

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applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) above. The interest may be waived by the Director if the facility's current ratio, as described in subsection (h)(1)(C) above, is 1.5 or less and the facility meets the criteria in subsections (h)(1)(A) and (B). Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) above.

6) **Subsequent Delayed Payment Arrangements.** Once a facility has requested and received approval for delayed payment arrangements, the facility may request subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delay of payment agreement. The waiver of penalties described in subsection (h)(4) above shall not apply to a facility that has not satisfied the terms and conditions of any current delayed payment agreement.

1) **Administration - Enforcement provisions**  
Pursuant to Section 58-7 of P.A. 87-861, to the extent practicable, the Department shall administer and enforce P.A. 86-861, P.A. 86-88 and P.A. 89-21, and collect the license fees, interest and penalties assessed under this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA").

3) Nothing in P.A. 89-21 shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before the effective date of P.A. 89-21.

## k) Definitions

As used in this Section, unless the context requires otherwise:

- 1) "Department" means the Illinois Department of Public Aid.
- 2) "Long-term Care Provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

4) "Licensed nursing bed days" means, with respect to a nursing home provider, the sum for all nursing beds, with the exception of spring-beds, a unit of care for a patient in a nursing home bed in the home during a calendar quarter on which each bed is covered by a license issued to that provider under the Nursing Home Care Act or the Hospital Licensing Act.

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- 5) "Nursing home" means a skilled nursing or intermediate long-term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code; and a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; however, the term "nursing home" does not include a facility for the mentally retarded, or an intermediate care facility for the mentally retarded within the meaning on Title XIX of the Social Security Act.

- 6) "Nursing home provider" means a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility which charges its residents, a third party payor, Medicaid, or Medicare for skilled nursing or intermediate long-term care services; or a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act.

- 7) "Person" means, in addition to natural persons, any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a secured creditor, trustee, guardian, or other representative acting on behalf of any of the foregoing.

- 8) "Swing-beds" means those beds for which a hospital provider has been granted an approval from the federal Health Care Financing Administration to provide post-hospital extended care services (42 CFR 409.30, October 1, 1991) and be reimbursed as a swing-bed hospital (42 CFR 413.114, October 1, 1991).

(Source: Amended at 20 Ill. Reg. 14845, effective 067-9-1-1996)

## SUPPLEMENT E: GROUP CARE

## Section 140.555 Minimum Wage

In the event of minimum wage increases, it may be necessary to make further adjustments in the minimum wage figure plus ten cents. The increase in costs projected by use of the above inflation projections. The specific adjustment for this change will be calculated as follows:

- a) The average nurses' aide salary for each geographic area Health Service-Area-454-group will be updated for inflation as specified in Section 140.552.

- b) The number will be compared to the new hourly minimum wage figure plus ten cents.

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- c) If the minimum wage plus ten cents is less than the updated average nurses' aide salary, no adjustment will be made. If it exceeds the updated, average nurses' aide salary, the difference between the two will be divided by the updated nurses' aide salary. That will yield a percentage shortfall which will be adjusted by the statewide average percentage of nonadministrative salary costs as a percentage of total operating costs and applied as an additional inflation factor to all facilities in that geographic area HSA-group.

(Source: Amended at 20 Ill. Reg. 14845, effective 067-9-1-1996)

## Section 140.560 Components of the Base Rate Determination

Except as specified otherwise in this Section, rates calculated for the rate year beginning July 1, 1990, and for subsequent years thereafter shall be based on the facility's cost report for the facility's full fiscal year ending at any point in time during the previous calendar year as long as that cost report is filed prior to April 1. Otherwise, the latest cost report available on March 31 will be used to set rates for July 1. For example, if a facility with a December 31, 1989 year end files their cost report prior to April 1, 1990, that cost report will be used to set rates for the rate year to begin on July 1, 1990. In this example, if the December 31, 1989 cost report is not filed until after March 31, 1990, the December 31, 1988 cost report will be used to set rates for the rate year to begin on July 1, 1990.

a) In the case of a change in the ownership of a previously certified facility, the cost report of the previous owner will be in effect for the remainder of the rate year. A new rate will be calculated for the next rate year based on the new owner's cost report if a cost report covering a minimum of the first six months of operation is received by the Office of Health Finance prior to April 1st. If a cost report covering the first six or more months of operation for the new owner cannot be filed with the Office of Health Finance prior to April 1st, the rate will be calculated based upon the prior owner's cost report filed in accordance with the opening paragraph of this Section. A Department's rules and cost report instructions will not be considered as received until all cost report pages are properly completed.

- b) In the case of a new facility, capital reimbursement will be assigned on the receipt of the first cost report (which may be an abbreviated cost report). The support reimbursement will be assigned on the receipt of the first full cost report. The support reimbursement will be assigned on the receipt of the first full cost report. (beginning with date the first patient was admitted) and support rates actual historical cost information. The capital and support rates will then be recalculated based upon this cost report. Rates so calculated will go into effect on the first day of the first month after the six month cost report is received by the Department's Office of Health Finance. The facility must obtain written verification of

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- the initial cost reporting period from the Office of Health Finance. When facilities submit the building will increase the licensed bed capacity by 10 percent or more, the facility may file a revised cost report reflecting the increased capital investment. If this revised cost report is filed within 30 days of the date of the increase in licensure as determined by the Illinois Department of Public Health, any increase in the capital rate will be effective on the effective date of licensure increase. If the revised cost report is filed more than 30 days after the effective date of increase in licensure, any increase in the capital rate will be effective on the first day of the first month after the report is received by the Finance Section.
- d) If an individual facility has been calculated, a new rate of return will be calculated during the course of the rate year, except as provided in subsections (b) and (c) above.
- e) If a facility incurs building construction improvements which increase the total building cost for the current year by ten (10) percent or more and which would raise the base year, then the nursing home may file a revised cost report which reports the increased capital investment. The base year is defined in Section 140.570(b)(2). If the improvements have been completed and put into use prior to the forthcoming rate year and the cost report reflecting increased capital costs is filed prior to the beginning of the next rate year, then any increase in the capital rate will be effective on the first day of the rate year.
- f) In order to accommodate the downsizing or reduction in bed capacity of ICF/MR facilities licensed for ICF/DD or SNF/PED Services, the following provisions will apply for revisions to rates. These provisions only apply for facilities which decrease their total licensure level by 20% or more due to a decrease in the beds licensed as ICF/DD or SNF/PED. The reduced bed capacity must be appropriate to achieve one or more of the following goals: (1) achieve compliance with ICF/MR regulations, such as four or fewer persons per room, (2) achieve compliance with ICF/MR regulations in an adverse action as part of a Plan of Correction (17 Ill. Adm. Code 300.278), and (3) increase adult services in order to provide services to persons with increased physical and/or medical conditions. Facilities who need services under Specialized Care-Health and Sensory Disabilities, Levels II and/or III (89 Ill. Adm. Code 144.150).

- 1) The facility must request pre-approval for application of these provisions from the Deputy Director of the Department's Division of Medical Operations. The written request must describe the necessity to reduce licensed bed capacity. The facility must send a schedule of the projected dates of each decrease in census. Written approval may be granted if the Deputy Director determines the change will be beneficial for the ICF/DD or SNF/PED residents.
- 2) The reduction in the number of licensed beds must be completed

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- within a one year period following the Deputy Director's approval, unless a longer reduction period is approved by the Deputy Director at the onset of the plan.
- 3) Capital rates will initially be set based upon provisions in Sections 140.570 through 140.574 with the use of capital days at a level which is no less than 93% of the license level at the time of application for downsizing. The support rate will be calculated in accordance with provisions in Section 140.561. The census used to calculate rates under this Section is referred to as the original census in subsection (f)(4). These initial rates will be modified for downsizing in accordance with subsection (f)(4).
- 4) The support rates will be revised every six months beginning on the approved downsizing period. These rates will also be revised on July 1 of each year. The facility must file reports of days of care provided, as requested by the Department.
- A) The capital rate will be increased in proportion to the agreed upon decrease in the census for the six month period. For example, with an original census of 19,250 days and a projected census of 16,425, the initial \$6.00 capital rate will be increased to \$6.67 as follows: (the initial capital rate) is multiplied by (the original census which has been divided by a planned census reduction), or  $(\$6.00 \times (19,250/16,425)) = \$6.67$ . The projected census for the six month period will be adjusted to reflect the difference between the projected census for the previous period and the actual census for the previous period.
- B) The support rate will be increased in proportion to the planned decrease in census during the six month period, with the assumption that 50% of the support costs are fixed and 50% of the support rate is variable. The variable half of the support rate will be increased in proportion to the planned census decrease over the six month period. For example, with an original support rate of \$22.00, the projected support rate for the six month period would be  $(\$22.00 \times (19,250/16,425)) = \$25.72$ . The projected census for each six month period will be adjusted by any difference between the projected census for the previous period and the actual census for the previous period.
- C) The program rate will be set according to the methodology described in 89 Ill. Adm. Code 144.275.
- 5) The support rate for ICF/DD facilities may not exceed the facility's geographic area MSA ceiling. Facilities having SNF/PED licenses, which are reducing facility census to comply with ICF/MR regulations which limit the number of persons per bedroom to four or fewer, may increase the facility's geographic area MSA ceiling but to no more than 1151. The exception

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allowing SNF/PED facilities to exceed the support rate geographic area HSA ceiling will only be based on the reduction in census to attain four or fewer persons per bedroom. If a SNF/PED facility reduces census below that required to attain four persons per bedroom, the support rate may not exceed the facility's geographic area HSA ceiling.

- 6) Facilities with a downsizing agreement with the Department will be exempt during the period of downsizing from the 94% higher occupancy requirement which is specified in Section 140.523, Bed Reserves. Once the final agreed upon census has been achieved, all bed reserve requirements will again be in effect beginning with the quarter following completion of the downsizing agreement (January 1, April 1, July 1 or October 1).

(Source: Amended at 20 Ill. Reg. 14845, effective OCT 31 1986)

## Section 140.561 Support Costs Components

Support Costs Components (includes laundry, dietary, house-keeping, utility and administration expenses) shall reimburse each facility for support costs associated with the provision of long term care services.

- a) The Department shall reimburse each facility for support costs associated with the provision of long term care services. The relationship between the facility's per diem allowable support costs and reference values determined for each geographic area Health-Serve Area--HSA--group from the distribution of per diem allowable support costs for all long term care facilities with adequate cost report data. For all facilities with a Department of Public Health license classification SNF/ICF (Skilled Nursing Facility, Intermediate Care Facility) or ICF/DD (Intermediate Care Facility for Developmentally Disabled), the support rate will be computed as follows for the rate year to begin July 1, 1989 and subsequent years:

- 1) If a facility's per diem allowable support costs are less than the 35th percentile value for per diem allowable support costs in the geographic area HSA-group, the support rate will be equal to the facility's per diem allowable support costs plus 50% of the difference between the 35th percentile value for per diem allowable support costs in the geographic area HSA-group and the facility's per diem allowable support costs.
- 2) If the facility's per diem allowable support costs are greater than or equal to the 35th percentile value of per diem allowable support costs for the geographic area HSA-group and less than the allowable per diem support costs for the geographic area HSA group plus \$.05.

- 2) If a facility's per diem allowable support costs are greater than or equal to the 35th percentile value of per diem allowable support costs for the geographic area HSA-group and less than the

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75th percentile value of per diem allowable support costs for the geographic area HSA-group, the support rate will be equal to the facility's per diem allowable support costs plus 50% of the difference between the 75th percentile value of per diem allowable support costs for the geographic area HSA-group and the facility's per diem allowable support costs.

- 3) If a facility's per diem allowable support costs are equal to or greater than the 75th percentile value of per diem allowable support costs for the geographic area HSA-group, the support rate will be equal to the 75th percentile value of per diem allowable support costs for the geographic area HSA-group.

- b) Small state ICF facilities which are licensed with 10 or six beds (ICF/DD-4, ICF/DD-6) (see 89 Ill. Adm. Code 144.300 and 144.325) are separately licensed facilities. However, for support reimbursement, the per diem is based on a sixteen person capacity and the sum of the support cost components is aggregated over four 4-person ICFs/DD, or one 4-person plus two 6-person ICFs/DD. The set of small scale ICFs/DD used in computing the support per diem will be identified in the provider agreements. All facilities in a set must be within the boundaries of the same geographic area HSA. Removal and/or addition of a small scale ICF/DD which is part of a set requires both a written notice by the provider 90 days before the beginning of a fiscal year (July 1), or upon certification in the case of a new facility which is licensed, and a change in the affected provider agreement that aggregating allowable support costs over the period of the set. A single ICF/DD and a sixteen person capacity will be treated as a single facility licensed as ICF/DD-16 and will be included in the computation of support rates described in subsection (d).

- c) For all facilities with a Department of Public Health license classification SNF/PED (Skilled Nursing Facility for Pediatric residents), the support rate will be computed exactly as described for the SNF/ICF and ICF/DD facilities, except that the reference value for each geographic area HSA-group (i.e., the 35th percentile value and the 75th percentile values for per diem allowable support costs) will be increased to 100% of the reference values applied in the computation of the support rates for SNF/ICF and ICF/DD facilities.

- d) For all facilities with a Department of Public Health license classification ICF/DD-16 (Intermediate Care Facility for the Developmentally Disabled) with 10 or fewer residents or a set of small scale ICFs/DD with a sixteen person capacity, the support rate will be computed exactly as described for the SNF/ICF and ICF/DD facilities, except that the reference value for each geographic area HSA-group (i.e., the 35th percentile value and the 75th percentile values for per diem allowable support costs) based upon the percentile values for per diem allowable support costs based upon cost of facilities or sets of facilities licensed as ICF/DD-16. A set of facilities licensed as ICF/DD-4 or ICF/DD-6 are considered as an ICF/DD-16 for the purpose of support reimbursement and the support rate is computed exactly as described for ICF/DD-16 facilities. All





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reported as a real estate tax cost plus one-half of the amount by which the refund exceeds the appeal cost, will be refunded to the facility. For example, assume that a facility receives a refund of \$70,000. The facility pays \$10,000 in legal fees related to the appeal. The \$10,000 legal fee can be reported as a real estate tax cost on the 1994 cost report. Forty thousand dollars of the refund must be offset against the cost that would otherwise be used to calculate the next year's real estate tax rates. The \$40,000 is the \$10,000 fee plus one-half of the \$60,000 excess above the fee. If the same cost reporting period is used to set rates for more than one rate year, this refund will only be offset in one rate year.

- C) This benefit of the offset of less than the full refund is only provided to facilities which report that amount of refund on the cost report in the year in which the refund occurred. Facilities which do not report the full amount of refunds will be offset in full and any unreported cost will be reclassified as an administrative cost rather than a real estate tax cost.

14845

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective OCT 31 1996)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Section Numbers: Adopted Action:  
104.10 Amendment  
104.273
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: November 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: November 1, 1996
- 9) Notice of Proposal Published in Illinois Register: Section 104.10  
Section 104.273  
July 12, 1996 (20 Ill. Reg. 8942) July 5, 1996 (20 Ill. Reg. 8620)
- 10) Has JCPR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version:  
Section 104.10  
No changes have been made in the text of the proposed amendments.  
Section 104.273  
Several changes have been made in the text of the proposed rulemaking.  
Subsection (c) has been revised as follows:  
c) If the vendor is a hospital and the Department's notice:  
1) is a result of Medicaid action, the Department will continue to make payments for services rendered, to persons who are eligible for and receiving Medical Assistance on the date of service of the Department's notice, up to the date the vendor's participation is terminated; or  
2) is for Medicaid only action, the Department may withhold payments

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pursuant to Section 104.272; or

For newly labeled subsection (e), the previous label "d" has been reinstated.

For newly labeled subsection (f), the previous label "e" has been reinstated.

No other changes have been made to the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the argument letter issued by JCAR? Yes

- 13) Will these amendments replace Emergency Amendments currently in effect? No

- 14) Are there any Amendments pending on this Part? No

- 15) Summary and Purpose of Amendments:

Section 104.10

These amendments add to the rules provisions for the acceptance of a facsimile (fax) of a request for a fair hearing. When the rule was originally written, the use of fax machines was not as prevalent as it is today by individuals outside of the business community. Today, more people choose to send information to local offices via fax machines.

These amendments establish that, for purposes of initiating an appeal, a faxed request is considered the same as an original written statement. Local offices will accept a facsimile of a completed Form DPA 139, Request for Fair Hearing, or any written statement in which a client expresses a wish to appeal.

Companion amendments are also being adopted in 89 Ill. Adm. Code 110.

Section 104.273

These amendments introduce revisions to Section 104.273 that differentiate between Medicare and Medicaid administrative termination proceedings for hospitals. For Medicare actions, the Department will continue to make payments until the date the vendor's participation is terminated, for reasons such as noncompliance with the rules for receiving Medicaid Assistance. For Medicaid actions, the Department will continue to make payments until the date of the Department's notice initiating the administrative proceeding for services rendered to eligible persons.

These changes are being made to allow the Department the flexibility to

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stop payments immediately when a Medicaid termination is initiated, and to continue payments when a notice is issued by the Department of Health and Human Services (HHS). HHS issues notices of intent to terminate a hospital's participation in the Medicare program when hospitals are not in compliance with federal regulations. Such hospitals correct any deficiencies before an actual termination occurs and holding payments during the pendency of proceedings places hospitals at risk relative to new admissions and the continuation of necessary services. However, Medicaid actions often involve the state directly, or indirectly, and the Department needs to maintain the right to hold payments immediately.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Section 104.10

Judy Unnuna

Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

Section 104.273

Joanne Jones

Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER A: GENERAL PROVISIONS

## PART 104

## PRACTICE IN ADMINISTRATIVE HEARINGS

## SUBPART A: ASSISTANCE APPEAL

## Section

104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Review
104.12	Notice of Hearing
104.20	Conduct of Hearings
104.21	Representation
104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
104.25	Subpoenas
104.26	Consolidation of Appeal
104.30	Remission of Appeals
104.45	Postponement or Continuation of Hearings
104.50	Withdrawal of Appeal
104.55	Closing of Hearing Record
104.60	Dismissal of Appeal
104.70	Final Administrative Decision
104.80	Public Aid Committee

## SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

## Section

104.100	Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support of Share of Jointly-Owned Funds
104.104	Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
104.105	

## SUBPART C: MEDICAL VENDOR HEARINGS

## Section

104.200	Applicability
104.202	Definitions
104.204	Notice of Denial of an Application
104.206	Notice of Intent to Recover Money
104.207	Notice of Contested Paternity Hearing

## DEPARTMENT OF PUBLIC AID

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104.208	Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement
104.209	Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to a State Licensing Agency and to Take Disciplinary Action Right to Hearing
104.210	Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
104.211	Paternity Petitions
104.212	Denial of Judgment in Contested Paternity Hearings
104.213	Notice of Formal Conference
104.216	Formal Conference on Recovery of Money
104.217	Purpose of Formal Conference
104.220	Notice of Hearing
104.221	Issues at Hearings
104.225	Legal Counsel
104.226	Appearance of Attorney or Other Representative
104.230	Notice, Service and Proof of Service
104.231	Form of Papers
104.235	Discovery
104.240	Conduct of Hearings
104.241	Amendments
104.242	Motions
104.243	Subpoenas
104.244	Production of Proof
104.245	Witness at Hearings
104.246	Evidence at Hearings
104.247	Cross-Examination
104.249	Genetic Testing in Contested Paternity Hearings
104.250	Official Notice
104.255	Computer Generated Documents
104.260	Recommendation of Peer Review Committee
104.270	Time Limits for Hearings
104.271	Continuances and Extensions
104.272	Withholding of Payments During Pendency of Proceedings
104.273	Continuation of Payments During Pendency of Proceedings
104.274	Denial of Payments for Services During Pendency of Proceedings
104.280	Record of Hearings
104.285	Failure to Appear or Proceed
104.290	Recommended Decision
104.295	Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST  
SKILLED NURSING FACILITIES AND INTERMEDIATE CARE  
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

## Section

104.300	Authority
104.302	Definitions

## DEPARTMENT OF PUBLIC AID

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- 104.304 Department Actions Against Nursing Homes Facilities  
 104.310 Certification  
 104.320 Joint Administrative Hearing  
 104.330 Facilities Certified Under Both Medicare and Medicaid
- SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS
- 104.400 Suspected Intentional Violation of the Program  
 104.410 Advance Notice of Administrative Disqualification Hearing  
 104.420 Postponement of Hearing  
 104.430 Administrative Disqualification Hearing Procedures  
 104.440 Failure to Appear  
 104.450 Participation While Awaiting a Hearing  
 104.460 Consolidation of Administrative Disqualification Hearing with Fair Hearing
- 104.470 Administrative Disqualification Hearing Decision and Notice of Decision  
 104.480 Appeal Procedure

## SUBPART F: INCORPORATION BY REFERENCE

- Section  
 104.800 Incorporation by Reference

**AUTHORITY:** Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

**SOURCE:** Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 131, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 28, 1978; amended at 11 Ill. Reg. 31, p. 37, effective March 1, 1979; amended at 11 Ill. Reg. 31, p. 37, effective May 8, 1980; emergency amendment at 5 Ill. Reg. 21, p. 80, effective May 8, 1980; emergency amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5774, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18313, effective November 9, 1990; amended at 15 Ill. Reg. 3220, effective January 15, 1991; amended at 15 Ill. Reg. 16397, effective April 30, 1991; amended at 16 Ill. Reg. 12993, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18334, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill.

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Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 31, 1995; amended at 20 Ill. Reg. 5659, November 1, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996.

## SUBPART A: ASSISTANCE APPEAL

## Section 104.10 Initiation of Appeal Process

- a) For General Assistance outside the city of Chicago, the appeal process is initiated by filing a written, signed request with the Public Aid Committee.
- b) For all other appeals, the appeal process is initiated by either:
- 1) filing a written, signed request with the Assistance Hearings Section or
  - 2) filing or written, signed request with the respective local office or
  - 3) telephoning a request to the Assistance Hearings Section's tollfree number for filing appeals.
- c) For purposes of initiating the appeal process, a facsimile of a written, signed request for a fair hearing is considered the same as the original written, signed request.
- d) A food stamp appeal may also be initiated by an oral request to the Department.

(Source: Nov 01 1996 20 Ill. Reg. **14891**, effective November 1, 1996)

## SUBPART C: MEDICAL VENDOR HEARINGS

## Section 104.273 Continuation of Payments During Pendency of Proceedings

The Department will continue to make payments during the pendency of an administrative proceeding when Federal or State law or regulation does not require such payments to be withheld, and in the following circumstances:

- a) If the vendor is a nursing home (not an ICF/MR facility), the Department will continue to make payments up to the termination date established by the Department for services rendered to persons continuously eligible for and receiving Medical Assistance and residing in the home on the date of the Department's notice initiating the termination of services.
- b) If the vendor is an ICF/MR facility, the Department will continue to make payments for services rendered to persons continuously eligible for and receiving Medical Assistance and residing in the home on the

## DEPARTMENT OF PUBLIC AID

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- date of the Department's notice initiating the administrative proceeding; or
- c) If the vendor is a hospital and the Department's notice:
    - 1) Is a result of Medicare action, the Department will continue to make payments for services rendered, to hospitalized persons who are eligible for and receiving Medical Assistance on the date of service of the Department's notice, up to the date the vendor's participation is terminated the Department's notice--initiating the administrative proceeding; or
    - 2) Is for Medicaid only action, the Department may withhold payments pursuant to Section 104.272 of
  - d) If the administrative proceeding only relates to recovery of money (and not termination), the Department will continue to process invoices for services rendered by the vendor subject to setoff for recovery of the amount sought in the proceeding; or
  - e) If the administrative proceeding only relates to suspension and not termination of eligibility, the Department will continue to make payments for services rendered by the vendor.

(Source: Amended at 20 Ill. Reg. **14891**, effective  
 NOV 01 1996 )

## DEPARTMENT OF REHABILITATION SERVICES

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Public Use of DORS Facilities
- 2) Code Citation: 89 Ill. Adm. Code 546
- 3) Section Numbers: Adopted Action:  
546.10 Amendments
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ICs 2405/3] and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ICs 5/16].
- 5) Effective Date of Rulemaking: November 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: November 1, 1996
- 9) Notice of Proposal Published in Illinois Register: June 21, 1996, 20 Ill. Reg. 8262
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: In Section 546.10(5)(a) changed "State laws" to "Departmental regulations."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking is being amended to require that a party who requests to use DOR - operated facilities must sign an agreement prior to using the facility that indicates compliance with State law prohibiting use of tobacco products or State property.
- 16) Information and questions regarding this adopted rule shall be directed to:

Ms. Susan Warner, Manager  
 Regulations and Procedures Division  
 Department of Rehabilitation Services  
 P.O. Box 19429  
 Springfield, IL 62794-9429  
 217/785-3896



DEPARTMENT OF REHABILITATION SERVICES  
NOTICE OF ADOPTED RULES

TTY: 217/785-9301

The full text of the Adopted Rule begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES  
NOTICE OF ADOPTED RULESTITLE 89: SOCIAL SERVICES  
SUBTITLE A: GENERAL PROGRAM PROVISIONS  
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## PART 546

## PUBLIC USE OF DORS FACILITIES

## Section

## 546.10 Public Use of DORS Facilities

**AUTHORITY:** Implementing Section 3 of the Disabled Persons Rehabilitation Act (20 ILCS 2405/3) and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

**SOURCE:** Adopted at 18 Ill. Reg. 10241, effective June 17, 1994; amended at 20 Ill. Reg. **14899**, effective NOV 01 1996.

## Section 546.10 Public Use of DORS Facilities

a) DORS operated facilities may be used by persons, groups or organizations at the discretion of DORS and under the following conditions:

- 1) Request to use a facility should be submitted in writing to the Superintendent/Office Manager of that facility at least two weeks in advance of the requested date(s); the request must detail the intended use and specify the part or parts of the facility needed;
- 2) the activity and reservation time must be approved, in writing, by the school Superintendent/Office Manager or his/her designee;
- 3) groups and organizations must designate an adult who is responsible for the group or organization;
- 4) the requestor(s) shall adhere to guidelines and regulations of this Section established by DORS concerning conduct and activities while on the premises and agree that his/her activities will not interfere with normal operations of the facility;
- 5) the requestor must sign an agreement prior to utilizing the facility that indicates:
  - A) compliance with applicable Departmental regulations State laws prohibiting the use of alcoholic beverages, tobacco products, illegal drugs, fireworks, explosives, guns, weapons and gambling on State property;
  - B) agreement to return the facility to the condition it was in prior to the group's use. If any cleanup expense is incurred by DORS, fees will be charged to the group or responsible person. The school Superintendent/Office Manager or his/her designee will determine if this requirement has been met by the person, group or organization; and

## DEPARTMENT OF REHABILITATION SERVICES

## NOTICE OF ADOPTED RULES

- c) understanding that DORS will not provide security/
- 6) proposed use of the facility shall not conflict with the provision of any lease held by DORS; and
- 7) any requestor(s) using the facility must pay all activity expenses incurred directly and not through DORS.
- b) The requestor(s) shall indemnify and hold harmless DORS and the State of Illinois for any loss DORS or the State may sustain resulting from the use of the facility for any purpose other than that authorized by the requestor(s) or organization. The person or organization will be asked to demonstrate it has liability insurance that is adequate for the type of event it is conducting and be asked to name DORS as an additional insured on its insurance policy. The Superintendent/Office Manager shall determine the amount and type of insurance required based on the type of activity and number of people to be involved. Any questions regarding type and amount of coverage shall be referred to DORS Legal Division for final determination.
- c) Requestor(s) using a DORS' facility shall not damage, deface, destroy, remove or injure in any way the State property being used. All persons, organizations, and groups will be responsible for all costs, expenses, damages and liability resulting from such damage, defacement, destruction, removal or other injury to State property.
- d) DORS may contract with local election boards to allow use of its facilities as accessible polling places during local, State, and Federal elections. The Superintendent/Office Manager shall determine the conditions of the Director if such use does not violate any local agreements and/or leases DORS may have for that property.

(Source: Amended at 20 Ill. Reg. effective  
NDV 0.1.1996 14899)

## POLLUTION CONTROL BOARD

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Livestock Waste Regulations
- 2) Code Citation: 35 Ill. Adm. Code 505
- | Section Numbers: | Proposed Action: |
|------------------|------------------|
| 505.101          | New Section      |
| 505.102          | New Section      |
| 505.103          | New Section      |
| 505.104          | New Section      |
| 505.105          | New Section      |
| 505.201          | New Section      |
| 505.202          | New Section      |
| 505.203          | New Section      |
| 505.204          | New Section      |
| 505.205          | New Section      |
| 505.206          | New Section      |
| 505.207          | New Section      |
| 505.208          | New Section      |
| 505.301          | New Section      |
| 505.302          | New Section      |
| 505.303          | New Section      |
| 505.304          | New Section      |
| 505.305          | New Section      |
| 505.306          | New Section      |
| 505.307          | New Section      |
| 505.308          | New Section      |
| 505.309          | New Section      |
| 505.310          | New Section      |
| 505.311          | New Section      |
| 505.312          | New Section      |
| 505.401          | New Section      |
| 505.402          | New Section      |
| 505.403          | New Section      |
| 505.404          | New Section      |
| 505.405          | New Section      |

4) Statutory Authority: 415 ILCS 27(c) and 510 ILCS 77 (P.A. 89-456)

5) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: March 30, 1997

6) Effective date of rule: October 31, 1996

7) Date Filed in Agency's Principal Office: October 29, 1996

8) Reason for Emergency: With the influx of construction of larger livestock management facilities without specification for their design, Illinois' groundwater is at risk. We recognize that the risk is not to the groundwater alone, but to the public at large, to the neighbors of the

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facilities, and to the livestock producers themselves, who risk environmental liability for any pollution caused. While there are no guarantees against pollution and liability, the Board believes that the adoption of these emergency rules is a major step forward to the benefit of all citizens of Illinois. Without new design standards to protect the aquifer material, the pollution of groundwater could Illinois is placed at serious risk. The pollution of groundwater could result in public water supply contamination, as well as the devaluation of a State resource. Because the design standards of the Livestock Management Facilities Act (LMFAC) are not effective until the Board adopts rules for the implementation of the LMFAC, the immediate adoption of specific regulations tailored to the design of facilities with a large concentration of animals is necessary to ensure the protection of our valuable natural resources, specifically Illinois' groundwater. The protection of Illinois' groundwater is of paramount concern in this State. The legislative floor debates concerning the LMFAC recognized this concern and, as the LMFAC states, livestock waste lagoons must be constructed according to standards to maintain structural integrity and to protect groundwater (310 ILCS 77/3(a)(7)). Because inadequately constructed and operated livestock management facilities present a groundwater risk, it is necessary to adopt a standard for the construction of these facilities to ensure the safety of Illinois' groundwater. The construction and operation of large livestock management facilities without specifically required and enforceable design standards constitutes "a threat to public interest, safety or welfare" of the citizens of the State of Illinois.

9) A Complete Description of the Subjects and Issues Involved: A more complete description may be found in the Board's opinion and order of October 29, 1996 in docket #97-14. These rules apply to livestock management facilities designed for 300 animal units or more. All livestock waste lagoons, which are newly constructed or modified and not in service until after the effective date of these emergency rules, at 400 animal units or more must be registered with the Department of Agriculture. All livestock waste lagoons must be built in accordance with specific design standards in order to protect Illinois' groundwater resources. Specifically, the owner or operator of a livestock waste lagoon, under the supervision of a licensed professional engineer, must drill at least one soil boring on the proposed site of the lagoon to determine the soil and groundwater characteristics. Where aquifer material such as sand is found within 20 feet of the bottom of the proposed lagoon, both groundwater monitoring and a liner is required. Where aquifer material is found between 20 and 50 feet from the bottom of the lagoon, a liner is generally required. Neither groundwater monitoring nor a liner is required if the aquifer material is more than 50 feet from the bottom of the lagoon, unless required by the Department of Agriculture based upon other factors specific to the site. Where a liner is required, the construction or installation of the liner must be conducted under the

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supervision of a licensed professional engineer who shall certify that the liner meets all applicable requirements. Where groundwater monitoring is required, procedures for quarterly groundwater monitoring are specified in the rule including specific chemical and bacteriological tests. Specific requirements in a livestock management facility's waste management plan must be approved by the Department of Agriculture to protect the environment. These plans are required for facilities designed for 1000 or more animal units. A certification procedure is set forth to allow the Department of Agriculture to begin certifying livestock managers at facilities designed for 300 or more animal units.

10) Are there any proposed amendments to this Part pending? NO

11) Statement of Statewide Policy Objectives: These amendments will only affect livestock management facilities and as such do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805/3(b)].

12) Information and questions regarding this rule (amendment, renewal) shall be submitted to: Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address below. Please refer to the Docket number #94-17.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601  
(312) 814-6931

Questions concerning this rulemaking may be directed to:

Marie E. Tipword  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601  
(312) 814-4925

The full text of the Proposed Rules begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AGRICULTURE RELATED POLLUTION  
CHAPTER 1: POLLUTION CONTROL BOARD

## PART 505

## LIVESTOCK WASTE REGULATIONS

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Applicability

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505.403 Examinations  
505.404 Methods of Certification  
505.405 Training Materials and Training Fees

AUTHORITY: Authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/27) and implementing the Livestock Management Facilities Act (P.A. 89-456, effective May 21, 1996, 510 ILCS 77).

SOURCE: Emergency amendment adopted in 897-14 at 20 Ill. Reg. 14903, effective October 31, 1996.

## SUBPART A: GENERAL PROVISIONS

## Section 505.101 Applicability

This Subpart shall apply to 35 Ill. Adm. Code 505. The applicability of Subpart B, Standards for Livestock Waste Lagoons, is set forth in Section 505.201 of this Part. The applicability of Subpart C, Waste Management Plans, is set forth at Section 505.302 of this Part. The applicability of Subpart D, Certified Livestock Manager, is set forth at Section 505.401 of this Part.

## Section 505.102 Severability

If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, such adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

## Section 505.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as the definition of such words or terms in the Environmental Protection Act (415 ILCS 5) or the Livestock Management Facilities Act (510 ILCS 77). For the purposes of this Part, the terms included herein shall have their associated meaning as follows:

"Agency" means the Illinois Environmental Protection Agency.

"Animal feeding operation" means a feeding operation as defined in the Illinois Environmental Protection Act and the rules promulgated under that Act concerning agriculture related pollution.

"Animal Unit" means a unit of measurement for any animal feeding operation calculated as follows:

- 1) *Blood cows and slaughter and feeder cattle multiplied by 1.0.*
- 2) *Milking dairy cows multiplied by 1.4.*

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- 3) Young dairy stock multiplied by 0.6.
- 4) Swine weighing over 55 pounds multiplied by 0.4.
- 5) Swine weighing under 55 pounds multiplied by 0.03.
- 6) Sheep, lambs, or goats multiplied by 0.1.
- 7) Turkeys multiplied by 0.02.
- 8) Laying hens or broilers multiplied by 0.01 (if the facility has continuous overflow watering).
- 10) Laying hens or broilers multiplied by 0.03 (if the facility has a liquid manure handling system).
- 11) Ducks multiplied by 0.02. [510 ILCS 77/10-10]

"Aquifer material" means carbonate or sandstone bedrock of any thickness; or sand or sand and gravel, as defined herein, such that there is at least two feet or more present within any five foot section of a soil boring performed in accordance with Section 505.402 of this Part.

"Certified Livestock Manager" means a person that has been duly certified by the Department as an operator of a livestock waste handling facility. [510 ILCS 77/10-15]

"Department" means the Illinois Department of Agriculture. [510 ILCS 77/10-20]

"Farm residence" means any residence on a farm owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers. For purposes of this definition, a "farm" is the land, buildings, and machinery used in the agricultural production of crops, products, and "farm" products. The land includes the land and the products which are produced or raised for commercial purposes and include but are not limited to forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur. [510 ILCS 77/10-23]

"Lagoon" or "Barthen livestock waste lagoon" means any excavated, diked, or walled structure or combination of structures designed for biological stabilization and storage of livestock wastes. A lagoon does not include a structure designed for the treatment of agricultural structures or pits under buildings as defined in rules under the Environmental Protection Act concerning agriculture related pollution. [510 ILCS 77/10-25]

"Licensed professional engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to

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practice professional engineering. [415 ILCS 5/57.2]

"Livestock management facility" means any animal feeding operation, livestock collection or sorting facility, or livestock handling facility, including, but not limited to, a livestock management facility under common ownership, where the facilities are not separated by a minimum distance of 1/4 mile, and that share a common livestock waste handling facility shall be considered a single livestock management facility. A livestock management facility at educational institutions, livestock pasture operations, where animals are housed on a temporary basis such as county and State fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities are not subject to the Livestock Management Facility Act or the requirements of this Part. [510 ILCS 77/10-30]

"Livestock waste" means livestock excreta and associated losses, bedding wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto any animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10-35]

"Livestock waste handling facility" means individually or collectively those immovable constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from the livestock waste. Two or more livestock waste handling facilities under common ownership and where the facilities are not separated by a minimum distance of 1/4 mile shall be considered a single livestock waste handling facility. [510 ILCS 77/10-40]

"Modified" means structural changes to a lagoon that increase its volumetric capacity. [510 ILCS 77/10-43]

"New facility" means a livestock management facility or a livestock waste handling facility the construction or expansion of which is commenced on or after the effective date of the Livestock Management Facility Act. Expanding a facility where the fixed capital cost of the new components constructed within a 2-year period does not exceed 50% of the fixed capital cost of a comparable entirely new facility shall not be deemed a new facility as used in the Livestock Management Facility Act. [510 ILCS 77/10-45]

"Non-farm residence" means any residence which is not a farm residence. [510 ILCS 77/10-47]

"Owner or operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling facility. [510 ILCS 77/10-50]



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"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other entity, including their legal representative, agent, or assigns. [510 ILCS 77/10.55]

"Placed in service" means the placement of livestock waste in a livestock waste lagoon upon the completion of construction or modification in accordance with the requirements of this Part.

"Populated area" means any area where at least 10 inhabited non-farm residences are located or where at least 50 persons frequent a common place of assembly or a non-farm business at least once per week. [510 ILCS 77/10.60]

"Sand" means unconsolidated materials where 70% or more of the particles are of size 0.05 millimeters to 2.00 millimeters, which according to USDA soil texture classification scheme includes soil textures of sand, and loamy sand, and portions of sandy loam and sandy clay loam textures.

"Sand and gravel" means unconsolidated materials that contain a matrix (particles of 2mm or less) that is consistent with the above definition of "sand" and particles larger than two millimeters in size.

## Section 505.104 Incorporations by Reference

a) The Board incorporates the following materials by reference:

- 1) ASAE. American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659 (616) 429-5585, "Design of Anaerobic Lagoons for Animal Waste Management", ASAE Standards 1992. ASAE EP403.1, 1992, pp. 498-500.
- 2) MWPS. Midwest Plan Service, Iowa State University, Ames, Iowa 50011-3080 (515) 294-4337, "Livestock Waste Facilities Handbook", 1988-1990 Edition, 1991.
- 3) USDA-NRCS. Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820, "Waste Treatment Lagoon", Illinois Field Office Technical Guide, Section IV, IL359, 5p.
- 4) University of Illinois at Urbana-Champaign, Office of Agricultural Communications and Education, 67X Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801 (217) 333-2007, "Illinois Agronomy Handbook 1995-1996", Circular 1333, 1994, 201 p.

b) This Section incorporates no later amendments or editions.

## SUBPART B: STANDARDS FOR LIVESTOCK WASTE LAGOONS

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## Section 505.201 Applicability

a) This Subpart applies to any lagoon that:

- 1) is located at a livestock management facility that has a maximum design capacity of 100,000 gallons or more, and
  - 2) is new or modified and has not been placed in service as of the effective date of this Part.
- b) For the purposes of this Subpart the number of animal units at a livestock management facility is the one-time maximum design capacity of that livestock management facility.

## Section 505.202 Site Investigation

a) The owner or operator of a livestock waste lagoon shall conduct a site investigation in accordance with the requirements of this Section to determine if aquifer material is present (or not present) within 50 feet of the planned bottom of the lagoon.

- b) The owner or operator shall, at a minimum, perform one or more soil borings to determine the presence of aquifer material as follows:
- 1) The soil boring shall extend to a depth of at least 50 feet from the bottom of the planned lagoon to the bedrock.
  - 2) If bedrock is encountered, additional soil borings may be necessary to verify the presence of aquifer material; and
  - 3) Soil borings shall be continuous to ensure that no gaps appear in the sample column.

c) The owner or operator of the earthen livestock lagoon may, with approval from the Department, modify or exceed these standards in order to meet site specific objectives. [510 ILCS 77/15(a)]

d) The site investigation in accordance with this Section shall be conducted under the direction of a Licensed Professional Engineer. Upon completion of site investigation, the supervising Licensed Professional Engineer shall certify that the site investigation meets all the applicable requirements of this Section, and whether aquifer material is present (or not present) within 50 feet of the planned bottom of the lagoon in accordance with Section 505.203 of this Part.

## Section 505.203 Registration

a) Prior to new construction or modification of any earthen livestock waste lagoon after the effective date of this Part, such earthen livestock waste lagoon shall be registered by the owner or operator with the Department on a form provided by the Department in accordance with the requirements of this Section. Lagoons constructed prior to the effective date of this Part may register with the Department at no charge. [510 ILCS 77/15(b)]

b) The registration form, accompanied by a \$50 fee, shall include the following:

- 1) Name(s) and address(es) of the owner and operator who are

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responsible for the livestock waste lagoon;

- 2) General location of lagoon;
  - 3) Design construction Plans and specifications;
  - 4) Specific location information (noted on a facility site map):
    - A) Distance to the nearest private or public potable well;
    - B) Distance to the nearest occupied private residence (other than any occupied by the owner or operator);
    - C) Distance to the nearest stream; and
    - D) Distance to the nearest populated area;
  - 7) Anticipated beginning and ending dates of lagoon construction;
  - 8) Type of vector and number of animals to be housed;
  - 9) A certification by the owner or operator, Licensed Professional Engineer, accompanied by supporting justification and data, certifying that the site investigation meets all the applicable requirements of Section 505.202 of this Part, whether aquifer material is present (or not present) within 50 feet of the planned bottom of the lagoon; and
  - 10) Where applicable a copy of the synthetic liner manufacturer's compatibility statement and liner maintenance guidelines. [510 ILCS 77/15(b)]
- c) The Department upon receipt of livestock waste lagoon registration form shall review the form to determine that all required information has been provided. The person filing the registration shall be responsible for providing the information. The Department shall, within 10 working days of receipt of the registration, conduct a site investigation. No later than 10 working days after the receipt of the clarification information, the Department shall notify the owner or operator that registration is complete. [510 ILCS 77/15(b)]

## Section 505.204 Lagoon Design Standards

- a) The owner or operator of any livestock waste lagoon subject to this part shall construct or modify the lagoon in accordance with [510 ILCS 77/15(a)]:
  - 1) Design of anaerobic lagoons for animal waste management", ASAE Engineering Practice 401.1; or the guidelines published by the National Engineering Council for the Agricultural and Resource Conservation Service titled "Waste Treatment Lagoon", which are incorporated by reference in 35 Ill. Adm. Code 505.104 [510 ILCS 77/15(a)]; and
  - 2) The additional design standards specified in subsections (c) through (g) of this Section.
- b) The Department may require changes in design or additional requirements to protect groundwater, such as extra line depth or synthetic liners, when it appears groundwater could be impacted. [510 ILCS 77/15(a)]
- c) The owner or operator shall conduct site investigation in accordance with Section 505.202 of this Part to determine if aquifer material is

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present (or not present) within 50 feet of the planned bottom of the lagoon.

- d) The owner or operator shall, as a part of the lagoon design, include the use of a liner and implement groundwater monitoring in accordance with the following conditions:
  - 1) If the upper most aquifer material is located above or within 20 feet of the lowest point of the planned lagoon bottom (as measured from the top of any proposed liner), then the lagoon design shall include both a liner and groundwater monitoring.
  - 2) If the upper most aquifer material is located between 20 and 50 feet of the lowest point of the planned lagoon bottom (as measured from the top of any proposed liner), then the lagoon design shall include a liner, but no groundwater monitoring is required.
  - 3) If no aquifer material is located within 50 feet from the lowest point of the planned lagoon (as measured from the top of any proposed liner), then the lagoon design shall require neither a liner nor groundwater monitoring.

- e) If the owner or operator determines that a liner is required for the lagoon pursuant to this Section, the design of the lagoon shall include in-situ soil liner, a borrowed clay, clay/bentonite mixture or a synthetic liner meeting the requirements of Section 505.205 of this Part.
- f) If the owner or operator determines that groundwater monitoring is required for the lagoon pursuant to this Section, the design of lagoon shall include the implementation of a groundwater monitoring program in accordance with Section 505.206 of this Part.
- g) Any livestock waste lagoon subject shall meet or exceed the following:
  - 1) Earthen walls shall have side slopes not to exceed a 3 to 1 ratio of horizontal to vertical;
  - 2) The total capacity of any newly constructed lagoon shall be sufficient to store the waste generated by the facility for no less than 270 days;
  - 3) Any lagoon exposed to precipitation shall have sufficient freeboard capacity to contain a 25 year, 24 hour storm, but in no case shall there be less than a 2 feet freeboard capacity; and
  - 4) Subsurface drainage lines in the immediate area of the livestock waste lagoon shall be removed or relocated to provide for a minimum separation distance of not less than 50 feet between the outermost extent of the lagoon and the subsurface drainage line.

## Section 505.205 Liner Standards

- a) The owner or operator of any livestock waste lagoon required to have a liner constructed from in-situ soils, borrowed clay or a clay/bentonite mixture, or a synthetic liner pursuant to Section 505.204(c) of this Part shall comply with the requirements of this

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- Section.
- b) liner constructed using in-situ soil or borrowed clay or clay/bentonite mixtures shall meet the following standards:
- 1) The minimum liner thickness shall be 2 feet;
  - 2) The liner shall be constructed in lifts not to exceed 6 inches in thickness;
  - 3) The liner shall be compacted to achieve a hydraulic conductivity equal to or less than  $1 \times 10^{-7}$  centimeters/second; and
  - 4) The construction and compaction of the liner shall be carried out to reduce void spaces and allow the liner to support the loadings imposed by the waste disposal operation without settling.
- c) Any synthetic liner used in the construction of a livestock waste lagoon shall meet the following standards:
- 1) The liner shall be designed to perform equivalent to or better than a liner that conforms to the standards above;
  - 2) The manufacturer shall provide the owner or operator the liner maintenance guidelines and shall certify that the liner is chemically compatible with:
    - A) The livestock waste being stored; and
    - B) The supporting soil materials.
  - 3) The liner shall be supported by a compacted base free from sharp objects;
  - 4) The liner shall have sufficient strength and durability to function at the site for the design period under the maximum expected loadings imposed by the waste and equipment and stresses imposed by settlement, temperature, construction and operation;
  - 5) The liner seams shall be made in the field according to the manufacturer's specifications. All sections shall be arranged so that the use of field seams is minimized and seams are oriented in the direction subject to the least stress;
  - 6) The manufacturer shall submit a copy of the manufacturer's compatibility statement and liner installation and maintenance guidelines at the facility.
  - d) The construction or installation of the liner in accordance with this Section shall be conducted under the direction of a Licensed Professional Engineer. Upon completion of construction or installation of the liner, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of this Section. Such certification shall include all supporting justification and data.
  - e) The owner or operator of a livestock waste lagoon shall submit to the Department a copy of the Licensed Professional Engineer's Certification prior to placing the lagoon in service in accordance with Section 505.207 of this Part.

## Section 505.206 Groundwater Monitoring

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- a) The owner or operator of any livestock waste lagoon required to implement groundwater monitoring pursuant to Section 505.204(c) of this Part shall implement a monitoring program which meets the requirements of this Section.
- b) The groundwater monitoring network shall consist of a minimum of three monitoring wells located on the basis of all groundwater conditions with at least two wells downgradient of the lagoon.
- c) The monitoring wells shall be installed in accordance with the following:
- 1) The requirements of Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.170;
  - 2) The top of the well screen shall be set below the seasonal low water table depth;
  - 3) Monitoring well shall utilize a five foot screened interval; and
  - 4) The screen shall be set in a sand pack of no less than five feet and no greater than seven feet.
- d) Monitoring wells shall be sampled once prior to placing the lagoon in service and quarterly thereafter. The samples shall be analyzed for nitrate-nitrogen, phosphate-phosphorous, chloride, organic carbon, nitrate, ammonia-nitrogen, Escherichia coli, and fecal coliform or fecal coliform equivalent. Samples shall be submitted to the Department within 30 days of receipt and shall include a discussion relative to the significance of the results.

## Section 505.207 Certification of Construction

- a) The Department shall inspect an earthen livestock waste lagoon at least once during the pre-construction, construction, or post-construction phase and shall require modifications when necessary to ensure the project will be in compliance with the requirements of this Part. [510 ILCS 77/15(b)]
- b) Upon completion of construction or installation of a liner, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of Section 505.205 of this Part. Such certification shall be submitted to the Department prior to placing the lagoon in service and include supporting data and justification.
- c) Upon completion of the construction or modification but before placing the lagoon in service, the owner or operator shall certify to the Department on a form provided by the Department that the lagoon has been constructed or modified in accordance with the requirements of this Part and that the information provided during the registration process is correct. The certification notice to the Department shall include a certification statement as required under Section 15(b)(2) of the Livestock Management Facilities Act [510 ILCS 77] and the signature of the owner or operator.
- d) The owner or operator of the lagoon may proceed to place the lagoon in service no earlier than 10 working days after submitting to the

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Department a certification of compliance statement. [510 ILCS 77/15(b)]

### Section 505.208 Failure to Register or Construct in Accordance with Standards

The owner or operator of any earthen livestock waste lagoon subject to registration that has not been registered or constructed in accordance with standards set forth in this Part shall, upon being identified as such by the Department, be given written notice by the Department to register within 10 working days of receipt of this notice. The Department may inspect such lagoon and require compliance in accordance with this Part. If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice, the Department may issue a cease and desist order until such time as compliance is obtained with the requirements of this Part. Failure to construct the lagoon in accordance with the requirements of this Part and Department recommendations is a business offense punishable by a fine of not more than \$5,000. [510 ILCS 77/15(f)]

### SUBPART C: WASTE MANAGEMENT PLAN

#### Section 505.301 Purpose

Livestock waste management plans shall be prepared by livestock management facility owners or operators to provide for adequate land area for the proper application of livestock waste at agronomic crop nitrogen usage rates.

#### Section 505.302 Scope and Applicability

- The owner or operator of a livestock management facility with less than 1,000 animal units shall not be required to prepare and maintain a waste management plan.
- The owner or operator of a livestock management facility with 1,000 or greater but less than 7,000 animal units shall comply with the following:

- For facilities in existence as of the effective date of this Part, the owner or operator shall prepare and maintain a waste management plan within 60 working days after the effective date of this Part;
- For facilities which commence operations after the effective date of this Part, the owner or operator shall prepare and maintain a waste management plan within 60 working days of commencing operations;
- For facilities that reach or exceed 1,000 animal units through expansion, the owner or operator shall prepare and maintain a waste management plan within 60 working days after reaching or exceeding 1,000 animal units;
- Prior to the end of the time period in subsections 505.302(b)(1) through (b)(3) above the owner or operator shall submit to the

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Department a form certifying that a livestock waste management plan has been prepared. The form shall also list the location of the plan; and

- The livestock waste management plan and records of waste disposal pursuant to Section 505.310 of this Part shall be available for inspection by the Department. The records shall be available for inspection by the Department personnel during normal business hours.
- The owner or operator of a livestock management facility with 7,000 or greater animal units shall comply with the following:
  - For facilities in existence as of the effective date of this Part, the owner or operator shall submit to the Department a waste management plan within 60 working days after the effective date of this Part for approval by the Department;
  - For facilities which commence operations after the effective date of this Part, the owner or operator shall submit a waste management plan to the Department. The facility shall not commence operation before the Department approves the plan; and
  - For facilities which reach or exceed 7,000 animal units through expansion, the owner or operator shall submit to the Department a waste management plan within 60 working days of reaching or exceeding 7,000 animal units for approval by the Department; and
  - Records of livestock waste disposal pursuant to Section 505.310 of this Part shall be kept on file at the facility for three years and shall be available for inspection by Department personnel during normal business hours.
- For the purposes of this Subpart the number of animal units at a livestock management facility is the one-time maximum design capacity of that livestock management facility.
- A separate waste management plan shall be developed for each livestock management facility and each facility shall identify the type of livestock waste storage structure or system. Waste from different types of storage structures may be applied to the same land provided that the maximum nitrogen application rate to obtain optimum crop yields is not exceeded.
- Notwithstanding the above provisions, a livestock management facility subject to this subpart may be operated on an interim basis but not to exceed 6 months after the effective date of these rules to allow for the owner or operator of the facility to develop a waste management plan.

#### Section 505.303 Waste Management Plan Contents

The livestock waste management plan shall contain the following items:

- Name, address, and phone number of the owner(s) of the livestock facility;
- Name, address, and phone number of the manager or operator if different than the owner(s);
- Address, phone number, and plot location of the facility, and





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land shall be obtained from Table 10-2, MFPS-18, Livestock Waste Facilities Handbook, p. 10.2.

c) For Section 505.303(m)(4) of this Part, factors for calculating the nitrogen credit for organic nitrogen in livestock waste shall be obtained from Table 10-5, MFPS-18, Livestock Waste Facilities Handbook, p. 10.4.

## Section 505.307 Optimum Crop Yields

The optimum crop yield goal, as required in Section 505.303(m)(5) of this Part, shall be determined for the land where the livestock waste is to be applied. The optimum crop yield can be determined using one of the following methods:

- Proven yields. Yield records shall be submitted for the past five years with a description of how the yield was proven. Data from years with proven yields may be discarded. A minimum of three years data shall be submitted.
- Crop insurance yields. A copy of the determined yield shall be submitted.
- Farm Service Agency yields. A copy of the determined crop yield shall be submitted.
- Soils based yield data from the Natural Resources Conservation Service. A soil map of the application areas shall be submitted. The optimum crop yield shall be determined by a weighted average of the soil interpretation yield records for the areas that will receive livestock waste.

## Section 505.308 Crop Nutrient Requirements

For Section 505.303(m)(5) of this Part, values for nutrients required for various crops in Illinois shall be obtained from Tables 11.12, 11.13 and 11.14, Circular 1333, Illinois Agronomy Handbook 1995-1996, pp. 82, 83 or from recommendations of the University of Illinois Cooperative Extension Service for crops not listed. For corn and grain, the nitrogen rate shall be 1.22 to 1.32 pounds per bushel of optimum yield. Nitrogen may be applied to soybeans at the same rate as if corn was being grown.

## Section 505.309 Nitrogen Credits

- For Section 505.303(m)(5) of this Part, nitrogen credits from previous crops shall be obtained from Table 11.14, Circular 1333, Illinois Agronomy Handbook 1995-1996, p. 83. Nitrogen credits for previously applied livestock waste (manure) shall not be taken from Table 11.14, but shall be obtained according to Section 505.309(b) of this Part.
- Nitrogen credits shall be calculated for the mineralized organic nitrogen in livestock waste applied during the previous three years at the rate of 50%, 25%, and 12.5%, respectively, of that mineralized during the first year.

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## Section 505.310 Records of Waste Disposal

Records of the livestock waste disposal shall include the following items:

- Method of waste application;
- Field identification;
- Method of application;
- Livestock waste application rate;
- Number of acres receiving waste; and
- Amount of livestock waste applied.

## Section 505.311 Approval of Waste Management Plans

a) Department approval of livestock waste management plans shall be based on the following criteria:

- 1) Residue application rates of nitrogen based on crop usage for optimum yield;
- 2) Demonstration of adequate land area for waste application based on Section 505.303 of this Part; and
- 3) Completeness and accuracy of plan contents as specified in Section 505.303 of this Part.

b) The owner or operator of the livestock management facility shall be notified by the Department within 30 working days of receipt of the livestock waste management plan that the plan has been approved or that further information or changes are needed. The owner or operator shall provide the information or changes within 30 working days.

## Section 505.312 Penalties

a) Any person who is required to prepare and maintain a waste management plan and who fails to do so shall be issued a warning letter by the Department for the first violation and shall be given 30 working days to prepare a waste management plan. For failure to prepare and maintain a waste management plan, the person shall be fined an administrative penalty of up to \$500 by the Department and shall be required to enter into an agreement of compliance to prepare and maintain a waste management plan within 30 working days. For failure to enter into an agreement of compliance within the second 30 day period or for failure to enter into a compliance agreement, the Department may issue an operational cease and desist order until compliance is attained.

b) Warning letters shall be sent via certified mail. The time period for a response by the livestock management facility owner or operator shall begin upon receipt of the warning letter.

c) A waste management plan prepared pursuant to a warning letter or compliance agreement shall be subject to approval by the Department according to Section 505.311 of this Part.

d) Penalties shall not be imposed for excessive nitrogen application for unplanned cropping changes due to the weather or other unforeseeable

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circumstances.

## SUBPART D: CERTIFIED LIVESTOCK MANAGER

## Section 505.401 Applicability

- a) A livestock waste handling facility serving 300 or greater animal units shall be operated only under the supervision of a certified livestock manager. Persons may become certified livestock managers by demonstrating an understanding of and competence for the operation of livestock waste handling facilities as established in Section 30 of the Livestock Management Facilities Act [510 ILCS 77] and further described in this part. Livestock Managers shall establish or re-establish certification when required to do so in accordance with Section 30 of the Livestock Management Facilities Act [510 ILCS 77].
- b) For the purposes of this Subpart the number of animal units at a livestock management facility is the one-time maximum design capacity of that livestock management facility.

## Section 505.402 Training Sessions

- a) A training session intended to assist livestock managers in meeting the requirements of certification shall be a minimum of three (3) hours duration and must address all general competency standards as established in Section 30 of the Livestock Management Facilities Act [510 ILCS 77].
- b) Training sessions offered by organizations other than the Department shall first be approved by the Department to be a valid method of certification for livestock managers under Section 30(d) of the Livestock Management Facilities Act [510 ILCS 77].
  - 1) Requests for training session approval shall be made in writing to the Department prior to their offering. Such requests shall include a specific course outline with contact time periods associated with each topic and copies of all handout materials to be utilized in the training session.
  - 2) The Department shall review the request and associated materials for compliance with the requirements included at Section 30(b) of the Livestock Management Facilities Act [510 ILCS 77] and provide notification in writing to the organization whether the request is approved or denied.
  - 3) An attendance list shall be maintained by the sponsoring organization at all approved training sessions. Upon completion of an approved session, the sponsoring organization shall forward a copy of the attendance sheet to the Department.

## Section 505.403 Examinations

- a) The closed book examination will consist of 100 questions pertinent to

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general competency standards (see Section 30(b) of the Livestock Management Facilities Act [510 ILCS 77]) and the Department will accept answers to the selected questions from multiple choice answers.

- b) A person may only take two attempts to successfully complete a written competency examination in any one normal work day. The examination can only be taken a maximum of three (3) times within any 6 month period.

## Section 505.404 Methods of Certification

Livestock Manager certification will be granted or denied by the Department after compliance is established with Section 30(d)(1) or (2) of the Livestock Management Facilities Act [510 ILCS 77] and upon receipt of the prescribed certification fee:

- a) If the method of compliance establishment includes a written examination, a minimum of 70% of the answers must be correct for certification to be granted;
- b) If the method of compliance establishment is attendance at a training session, the training session must be approved by the Department and the applicant's name must appear on the attendance list; and
- c) In addition, all information requested on the examination application must be provided for certification to be granted.

## Section 505.405 Training Materials and Training Fees

- a) Forms and training materials for livestock manager certification will be available at the local level at the Department's direction and at Department offices.
- b) The Department may charge fees for the supply of training materials and training sessions provided by the Department on a cost reimbursement basis. Such cost reimbursement may include meeting room rental, material purchase or duplication costs, other material-related expenses and staff expense associated with the conduct of the training session.

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- 1) **Heading of the Part:** Private Detective, Private Alarm and Private Security Act of 1993

- 2) **Code Citation:** 68 Ill. Adm. Code 1240

- 3) **Section Numbers:**  
 1240.100 New Section  
 1240.101 New Section  
 1240.120 New Section  
 1240.130 New Section  
 1240.140 New Section  
 1240.150 New Section  
 1240.160 New Section

- 4) **Statutory Authority:** The Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 [225 ILCS 446]

- 5) **Effective Date of Amendments:** October 31, 1996

- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they will expire. These emergency amendments are to expire when the proposed amendments are adopted.

- 7) **Date Filed in Agency's Principal Office:** October 31, 1996

- 8) **Reason for Emergency:** Section 77 of the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993, as amended by P.A. 89-366, Section 197, effective January 1, 1996, provides that on or after January 1, 1997, no person shall practice as a locksmith in this State and no business entity shall operate as a locksmith agency without first obtaining a license from the Department of Professional Regulation. The Legislature has determined that locksmithing is a practice affecting the public health, safety and welfare. Emergency rules are necessary to assure having legally practicing locksmiths in Illinois after the January 1, 1997, deadline for licensure.

- 9) **A Complete Description of the Subjects and Issues Involved:** This rulemaking establishes requirements and procedures for obtaining a locksmith license in Illinois. Individuals who present proof to the Department of Professional Regulation that they were actively engaged as locksmiths or as supervisors, managers or administrators of a locksmith business for one year out of the 5 years immediately preceding January 1, 1996, and who are not currently licensed, may obtain grandfathered licenses under grandfather provisions of the Act. This will enable them to obtain locksmith licenses without examination. The grandfather period will end January 1, 1998.

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Those seeking licensure by examination will need to apply to the Department at least 60 days prior to the exam date. They must pass the exam with a score of at least 70 and meet other requirements specified in the emergency rules. One of these requirements is proof of at least \$1 million of liability insurance.

Employees of any locksmith agency certified under the Act will be required to complete the training course within 30 days after their employment, a 20-hour basic training course described in the emergency rules.

The emergency rules also tell how to qualify for and obtain a permanent employee registration card and under what circumstances the Department may refuse to issue such a card. Other new Sections list recordkeeping and reporting requirements.

- 10) **Are there any Proposed Amendments to this Part pending:** Yes

- 11) **Statement of Statewide Policy Objectives:** This rulemaking has no impact on local government.

- 12) **Information and questions regarding these Rules shall be directed to:**

Department of Professional Regulation

Attention: Jean Courtney

320 West Washington, 3rd Floor

Springfield, IL 62786

217/785-0810

Fax #: 217/782-7645

**The full text of the Emergency Amendments begins on the next page:**

## DEPARTMENT OF PROFESSIONAL REGULATION

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
 SUBCHAPTER B: PROFESSIONS AND OCCUPATIONS

## PART 1240

PRIVATE DETECTIVE, PRIVATE ALARM, AND  
 PRIVATE SECURITY, AND LOCKSMITH ACT OF 1993

## SUBPART A: PRIVATE DETECTIVE, PRIVATE ALARM AND PRIVATE SECURITY

Section  
 1240-5 License Under Section 6 of the Act (Repealed)  
 1240-6 Exemptions Under Section 30 of the Act  
 1240-7 Application for Examination and Licensure - Private Detective and  
 Private Security Contractor  
 1240-15 Application for Examination and Licensure - Private Alarm Contractor  
 1240-16 Registration of Proprietary Security Force  
 1240-20 20-Hour Basic Training Course - General  
 1240-25 Firearms Training Course - Security Guards and Alarm Runners  
 1240-30 Firearms Training Course - Security Guards and Alarm Runners  
 1240-35 Approval of Training Programs and Instructors  
 1240-40 Permanent Employee Registration Cards  
 1240-41 Refusal to Issue Employee Registration Card or Firearms Authorization  
 Card Due to Criminal History Record Information  
 1240-45 Firearms Authorization Cards  
 1240-46 Recordkeeping Requirements  
 1240-47 Reporting Requirements  
 1240-48 Uniforms  
 1240-50 Renewals  
 1240-51 Requests for Duplicate Certificates  
 1240-55 Endorsement  
 1240-60 Restoration  
 1240-65 Conduct of Hearings  
 1240-66 Investigation by the Department  
 1240-70 Granting Variances

## SUBPART B: LOCKSMITH

1240-100 Application for Licensure without Examination - Grandfather  
 EMERGENCY  
 1240-110 Application for Examination and Licensure - Locksmith  
 EMERGENCY  
 1240-120 20 Hour Basic Training Course - Locksmith  
 EMERGENCY  
 1240-130 Permanent Employee Registration Cards  
 EMERGENCY  
 1240-140 Refusal to Issue Employee Registration Card  
 EMERGENCY

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## 1240-150 Recordkeeping Requirements

## EMERGENCY

## 1240-160 Reporting Requirements

## EMERGENCY

AUTHORITY: Implementing the Private Detective, Private Alarm and Private Security Act of 1993 (225 ILCS 446) and authorized by Section 60(7) of the Civil Administrative Code of Illinois (20 ILCS 2105/60(7)).

SOURCE: Rules and Regulations promulgated for the Administration of the Illinois Detective Act, effective October 7, 1975; amended at 4 Ill. Reg. 22, P. 251, effective May 15, 1980; codified at 5 Ill. Reg. 11032; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8208, effective July 15, 1982; emergency amendment at 8 Ill. Reg. 903, effective January 6, 1984, for a maximum of 150 days; Part repealed and new Part adopted at 9 Ill. Reg. 18512, effective November 15, 1985; transferred from Chapter I, 68 Ill. Adm. Code 240 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1240 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2967; amended at 12 Ill. Reg. 20143, effective November 18, 1988; amended at 15 Ill. Reg. 3051, effective February 11, 1991; amended at 17 Ill. Reg. 1579, effective January 26, 1991; amended at 17 Ill. Reg. 394, effective January 17, 1995; amended at 19 Ill. Reg. 13460, effective September 8, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1131, effective February 2, 1996; emergency amendment at 20 Ill. Reg. 14984, effective OCT 3 1996, for a maximum of 150 days.

## SUBPART B: LOCKSMITH

Section 1240-100 Application for Licensure without Examination - Grandfather  
 EMERGENCY

- a) An individual seeking licensure without examination as a locksmith shall make application to the Department, on forms provided by the Department, by January 1, 1996. The application shall include:
- 1) Three affidavits signed by an employer, or by colleagues if the applicant was self-employed, indicating that the applicant was employed as a locksmith for at least 12 months prior to the date of the application; and
  - 2) Three affidavits signed by the administrator of a locksmith business for 3 years out of the 5 years immediately preceding January 1, 1996. To determine such fulfillment, the following standards shall be applied:
    - A) The term "year" shall be 12 months with an average of at least 20 work days per month during which the applicant was engaged in full-time employment equal to 1500 hours or more annually.
    - B) The practice of locksmithing includes, but is not limited

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to the servicing, installing, originating first keys, re-coding, manipulation, or bypassing of mechanical or electronic locking devices at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines. (Section 5)

## 2) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police for fingerprint processing for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 105(d)(13) of the Act; or

B) Verification, on forms provided by the Department, of full-time employment as a peace officer in lieu of fingerprint cards. Such verification shall be signed by the employer. A peace officer is defined as any person who by law with a primary duty to maintain public order or to make arrests for offenses and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers.

3) 2 photographs 1" x 1" taken within the 3 months preceding application;

4) Proof of at least \$1,000,000 of liability insurance held by the applicant, as evidenced by a certificate of insurance from the Illinois Department of Insurance;

5) The required fee(s) specified in Section 105 of the Act.

(Source: Emergency amendment at 20 Ill. Reg. **14924**, effective **—OCT 3 1996—**, for a maximum of 150 days)

## Section 1240.110 Application for Examination and Licensure - Locksmith

## EMERGENCY

a) An individual seeking licensure by examination as a locksmith shall make application to the Department, on forms provided by the Department, which shall include questions necessary for the Department to establish that the applicant meets the qualifications for licensure specified in Section 75(d) of the Act.

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b) The passing score on the examination is 70 or above.  
c) Upon notification of successful completion of the examination, the applicant may apply to the Department for licensure. The application shall include:

## 1) Either:

A) Verification of fingerprint processing from the Illinois Department of State Police or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police for fingerprint processing for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 105(d)(13) of the Act; or

B) Verification, on forms provided by the Department, of full-time employment as a peace officer in lieu of fingerprint cards. Such verification shall be signed by the employer. A peace officer is defined as any person who by law with a primary duty to maintain public order or to make arrests for offenses and has completed the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws shall be considered peace officers.

2) 2 photographs 1" x 1" taken within the 3 months preceding application;

3) Proof of at least \$1,000,000 of liability insurance held by the applicant, as evidenced by a certificate of insurance from the Illinois Department of Insurance;

4) The required fee(s) specified in Section 105 of the Act.

(Source: Emergency amendment at 20 Ill. Reg. **14924**, effective **—OCT 3 1996—**, for a maximum of 150 days)

## Section 1240.120 20-Hour Basic Training Course - Locksmith

## EMERGENCY

a) Every person employed as a registered employee of a locksmith agency certified under the Act, except as specified in Section 140 of the Act, shall complete, within 30 days after his/her employment, a course of training. The training shall be a minimum of 20 hours of training related to his/her employment that shall be certified to by the employer and shall include, at a minimum the following subject areas:



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## 1.) Public Safety Codes (NFA 80 &amp; NFPA 101)

- A) Life Safety Codes
- B) Building Code
- C) ADA Law

## 2.) Practical Locksmithing

- A) Master Keying
- B) Key Records and Codes
- C) Key Blanks and Keyways
- D) Product Liability
- E) Professional Installations
- F) Non-Residential Locks

## 3.) Responsibilities as Required by the Act

- A) When to ask for identification
- B) What identification is acceptable

## 4.) Personal Employee Registration Card (PERCE)

- A) Cause for revoking the card
- B) Disciplinary Sanctions
- C) Renewal

c) Upon successful completion of the training prescribed above, each individual shall be issued, by the employer or the instructor, a Certification of Completion of the 20-hour Basic Training Course, which shall be signed by the instructor. The licensee-in-charge shall be responsible for the documentation of the training.

d) The Certification shall be the permanent record of training and shall be retained by the individual as proof of the training. During the term of the individual's employment with the employer, the licensee-in-charge shall be responsible for the documentation of the training. The Certification shall be filed by the employer with the employee statement and shall remain in the file during the term of employment. Upon termination of employment the original Certification shall be returned to the employee.

e) In the case of an employee who is employed by more than one employer, a notarized copy of the Certification of Completion of the 20-hour Basic Training Course shall be kept with the employee statement in lieu of the original Certification.

f) Basic training materials will be made available to Department personnel upon request to verify content.

14924

(Source: Emergency amendment at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

## Section 1240.130 Permanent Employee Registration Cards

## EMERGENCY

a) Any person seeking employee registration under Section 80 of the Act shall file an application with the Department, on forms provided by the Department, along with the following:

- 1) Either:
  - A) Verification of fingerprint processing from the Illinois

Department of State Police or its designated agent. Effective October 1, 1995, applicants shall contact the Illinois Department of State Police or its designated agent for fingerprint processing. Out of state residents unable to utilize the State Police fingerprint process may submit to the Department one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 105(d)(1)(3) of the Act or of the Regulations, on forms provided by the Department, of full-time employees of the Department, or full-time employees of the Department of State Police. Such verification shall be signed by the employee. A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses and has satisfied the training requirements of the Illinois Police Training Act. For purposes of this Section, officers, agents or employees of the Federal government commissioned by Federal statute to make arrests for violations of Federal criminal laws shall be considered peace officers.

B) One 1" x 1" photograph taken within the 3 months preceding application; and

2) The required registration fee specified in Section 105 of the Act, made payable to the Department of Professional Regulation.

3) The applicant, notations of the Department of Professional Regulation, shall be made to the Department of Professional Regulation and the applicant shall be scheduled to work.

c) If no record is found affecting the prints, the Department shall issue to the applicant a permanent employee registration card, which shall be valid for the period specified on the face of the card and shall be renewable upon the conditions set forth in Section 1240.50 of this Part.

d) The employee registration card shall serve as proof to an employer that the bearer thereof is eligible for employment.

e) Persons who have no access to confidential or security information and who do not provide locksmith services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of retention personnel who have no access to confidential or security information, Confidential or security information is that which is not in the employee's files, key records, customer access codes or combinations or technical data.

14924

(Source: Emergency amendment at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

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- 6) Certification of Completion of Basic Training as provided in Sections 1240.110 of this Part;
- 7) Copy of employee's Permanent Employee Registration Card; and
- 8) Copy of the verification of training received from the Department of Professional Regulation.
- b) A locksmith who owns, resides or otherwise maintains a vault, safe, deposit box, automatic teller machine, or other device for safeguarding areas where access is meant to be limited for another, whether or not for compensation, shall document the street address where the work was performed on a work order form. The locksmith shall also document the name, address, telephone number, date of birth, and driver's license number or other identification number of the person requesting the work be done and obtain the signature of that person on the work order form. A copy of each work order form shall be kept by the licensed locksmith for a period of 2 years and shall also include the name and license number of the locksmith or the name and employee identification number of the registered employee who performed the services. Work order forms required to be kept under this Section shall be available for inspection upon written request made 3 days in advance by any law enforcement agency.
- c) A locksmith who owns a motor vehicle shall document the other or not for transportation and obtain a work order form with the name, address, telephone number, date of birth, and driver's license number or other identification number of the person requesting entry and obtain the signature of that person. A copy of each work order form shall be kept by the licensed locksmith for a period of 2 years and shall also include the name and license number of the locksmith or the name and employee identification number of the registered employee who performed the services. Work order forms required to be kept under this Section shall be available for inspection upon written request made 3 days in advance by any law enforcement agency. (Section 82)

(Source: Emergency amendment at 20 Ill. Reg. 14924, effective OCT 3 1996, for a maximum of 150 days)

## Section 1240.160 Reporting Requirements

## EMERGENCY

- a) All licensees and registrants shall notify the Department in writing within 10 days of any conviction(s), arrest(s), and/or indictment(s) against him/her.
- b) All agencies shall submit a monthly roster of employees with PRCE application(s) pending with the Department.

(Source: Emergency amendment at 20 Ill. Reg. 14924, effective OCT 3 1996, for a maximum of 150 days)

## DEPARTMENT OF PUBLIC AID

NOTICE OF REFUSAL TO MEET THE OBJECTION  
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: Emergency Action:  
148.82 Amendment  
148.140 Amendment  
148.160 Amendment  
148.285 New Section
- 4) Notice of Emergency Amendments Published in the Illinois Register: July 12, 1996 (20 Ill. Reg. 9281)
- 5) JCAR Statement of Objection to Emergency Amendments Published in the Illinois Register: September 6, 1996 (20 Ill. Reg. 12276)

6) Summary of Action Taken by the Agency:

At its meeting on August 30, 1996, the Joint Committee on Administrative Rules issued a statement of objection to the Department of Public Aid's amendments to its rules entitled Hospital Services (89 Ill. Adm. Code 148), which were published on July 12, 1996, at 20 Ill. Reg. 9281. The Joint Committee cites as objectionable (1) the removal of language concerning outlier adjustments for organ transplant procedures in Section 148.82 and (2) the Department's explanation of the reasons for the emergency action.

In response to the first specific objection, the Department agrees that the removal of language concerning outlier adjustments for organ transplant procedures in Section 148.82 is inaccurate and will correct this error. As noted by the Joint Committee, the application of outlier adjustments to organ transplant procedures is federally mandated and should have been retained in the rules.

As a practical matter, however, outlier adjustments are not actually applied in practice to organ transplant procedures. The Department agrees to delete the language in Section 148.82 concerning outlier adjustments and increase reimbursement to the point that the criteria for outlier adjustments in Section 148.130 will not be met. On that basis, the Department does not view the inadvertent removal of the language concerning outlier adjustments in these emergency amendments as a significant problem.

The language concerning outlier adjustments will be restored to Section 148.82 in the second notice and adoption of the regular rulemaking which will replace these emergency amendments.

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OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

In response to the second specific objection, the Department also agrees with the Joint Committee's statement that the reasons for the Department's emergency action were not stated as completely as they should have been. Rather than simply citing its broad authority for emergency action under Public Act 89-499, the Department should have included an explanation of the need for emergency action to implement payments under the Excellence in Academic Medicine Act (Public Act 89-506) and to make other revisions in the language of the rules.

Despite the lack of precision of the reasons stated for its emergency action, however, the Department believes that the emergency action is fully justified under the requirements of Section 5-45 of the Administrative Procedure Act.

These emergency amendments were necessitated by the need to implement changes in reimbursement for hospital services for fiscal year 1997 as promptly as possible. The changes in sunset dates for certain add-on payments as well as the implementation of the Excellence in Academic Medicine payments were essential parts of the overall budget implementation which included companion emergency amendments to 89 Ill. Adm. Code 140, 152 and 153. The Department believes that this need for expeditious budget implementation clearly constituted an emergency under the requirements of Section 5-45 of the Administrative Procedure Act.

## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Alternative Standards for Coal Combustion Power Generating Facilities Waste Landfills
- 2) Code Citation: 35 Ill. Adm. Code 816
- 3) Section Numbers: Chapter and Subchapter headings.
- 4) Date Proposal published in Illinois Register: 10/13/96, 19 Ill. Reg. 12650
- 5) Date Adoption published in Illinois Register: 9/20/96, 20 Ill. Reg. 12614
- 6) Summary and Purpose of Expedited Correction: The published rule failed to include in the main headings "CHAPTER I: POLLUTION CONTROL BOARD" and the adopted rule main heading contains "SUBCHAPTER I" instead of "SUBCHAPTER I".
- 7) Information and questions regarding this request shall be directed to:  
Chuck Feinen  
Pollution Control Board  
300 N. Dearborn  
100 W. Randolph - Suite 11-500  
Chicago, IL 60601  
312/814-3620

## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER 11: POLLUTION CONTROL BOARD

SUBCHAPTER 11: SOLID WASTE AND SPECIAL WASTE HAULING

ALTERNATIVE STANDARDS FOR COAL COMBUSTION POWER

GENERATING FACILITIES WASTE LANDFILLS

## Section

816.500 Scope and Applicability

816.510 Poz-O-Tec Liners and Caps

816.520 Poz-O-Tec Monofills

816.530 Testing of Poz-O-Tec Liners and Caps and Poz-O-Tec Monofills

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

SOURCE: Adopted in R96-1 at 20 Ill. Reg. 14938, effective August 15, 1996; expedited correction at 20 Ill. Reg. 14937, effective August 15, 1996.

## Section 816.500 Scope and Applicability

- a) Except as otherwise specified in this Subpart, landfills receiving solely flue gas desulfurization (FGD) sludges and coal combustion wastes produced by coal combustion power generating facilities shall be designed, constructed and operated in compliance with all applicable requirements of 35 Ill. Adm. Code 811, 812 and 815.
- b) All general provisions of 35 Ill. Adm. Code 810 apply to this Part.

## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

1) Heading of the Part: Standards for New Solid Waste Landfills2) VCode Citation: 35 Ill. Adm. Code 8113) Section Numbers: Main Source Note

4) Date Proposal published in Illinois Register: 10/13/95, 19 Ill. Reg. 14286

5) Date Adoption published in Illinois Register: 9/26/96, 20 Ill. Reg. 12000

6) Summary and Purpose of Expedited Correction: The adopted rule failed to indicate in the Main Source Note that Part 811 had been "amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995".

7) Information and questions regarding this request shall be directed to:

Chuck Feinen

Pollution Control Board

James R. Thompson Center

100 W. Randolph - Suite 11-500

Chicago, IL 60601

312/614-6250



## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

## TITLE 35: ENVIRONMENTAL PROTECTION

## CHAPTER 1: POLLUTION CONTROL BOARD

## SUBCHAPTER 1: SOLID WASTE AND SPECIAL WASTE HAULING

## PART 811

## STANDARDS FOR NEW SOLID WASTE LANDFILLS

## SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

## Section Scope and Applicability

811.101 Station Standards

811.102 Survey Methods

811.103 Survey Controls

811.104 Compaction

811.105 Daily Cover

811.106 Operating Standards

811.107 Salvaging

811.108 Boundary Control

811.109 Closure and Written Closure Plan

811.110 Postclosure Maintenance

811.111

## SUBPART B: INERT WASTE LANDFILLS

## Section Scope and Applicability

811.201 Determination of Contaminated Leachate

811.202 Design Period

811.203 Final Cover

811.204 Final Slope and Stabilization

811.205 Leachate Sampling

811.206 Load Checking

811.207

## SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

## Section Scope and Applicability

811.301 Facility Location

811.302 Design Period

811.303 Foundation and Mass Stability Analysis

811.304 Foundation Construction

811.305 Liner Systems

811.306 Leachate Drainage System

811.307 Leachate Collection System

811.308 Leachate Treatment and Disposal System

811.309 Landfill Gas Monitoring

811.310 Landfill Gas Management System

811.311

## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

## Landfill Gas Processing and Disposal System

## Intermediate Cover

## Final Cover System

## Hydrogeological Site Investigations

## Plugging and Sealing of Drill Holes

## Groundwater Impact Assessment

## Design, Construction, and Operation of Groundwater Monitoring Systems

## Groundwater Monitoring Programs

## Groundwater Quality Standards

## Waste Placement

## Final Slope and Stabilization

## Leachate Collection System

## Corrective Action Measures for NSMWF Units

## Selection of Remedy for NSMWF Units

## Implementation of the corrective action program at NSMWF Units

## 811.125

## 811.126

## SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

## Section Scope and Applicability

811.401 Notice to Generators and Transporters

811.402 Special Waste Manifests

811.403 Special Waste Tracking

811.404 Recordkeeping Requirements

811.405 Procedures for Excluding Regulated Hazardous Wastes

811.406

## SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

## Section Scope and Applicability

811.501 Duties and Qualifications of Key Personnel

811.502 Inspection Activities

811.503 Sampling Requirements

811.504 Recordkeeping

811.505 Foundations and Subbases

811.506 Compacted Earth Liners

811.507 Geomembranes

811.508 Leachate Collection Systems

811.509

## SUBPART G: FINANCIAL ASSURANCE

## Section Scope, Applicability and Definitions

811.700 Upgrading Financial Assurance

811.701 Release of Financial Assurance

811.702 Application of Proceeds and Appeals

811.703 Closure and Postclosure Care Cost Estimates

811.704 Revision of Cost Estimate

811.705

## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

- 811.706 Mechanisms for Financial Assurance  
 811.707 Use of Multiple Financial Mechanisms  
 811.708 Use of a Financial Mechanism for Multiple Sites  
 811.709 Trust Fund for Unrelated Sites  
 811.710 Surety Bond  
 811.711 Surety Bond Guaranteeing Payment  
 811.712 Surety Bond Guaranteeing Performance  
 811.713 Letter of Credit  
 811.714 Closure Insurance  
 811.715 Self-Insurance for Non-commercial Sites
- APPENDIX A Financial Assurance Forms
- ILLUSTRATION A Trust Agreement  
 ILLUSTRATION B Certificate of Acknowledgment  
 ILLUSTRATION C Forfeiture Bond  
 ILLUSTRATION D Performance Bond  
 ILLUSTRATION E Irrevocable Standby Letter of Credit  
 ILLUSTRATION F Certificate of Insurance for Closure and/or Postclosure Care  
 ILLUSTRATION G Operator's Bond Without Surety  
 ILLUSTRATION H Operator's Bond With Parent Surety  
 ILLUSTRATION I Letter from Chief Financial Officer
- APPENDIX B Section-by-Section Correlations Between the Requirements of the Federal MSWLF Regulations at 40 CFR 258 (1992) and the Requirements of Parts 810 through 814

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17, 22.40 and 28.1 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/5, 21, 21.1, 22, 22.17, 22.40, 28.1 and 27).

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1306, effective January 13, 1994; expedited correction at 18 Ill. Reg. 1504, effective July 19, 1993; amended in R90-26 at 16 Ill. Reg. 12484, effective August 1, 1994; amended in R91-15 at 15 Ill. Reg. 12257, effective August 1, 1993; amended in R96-1 at 20 Ill. Reg. 14939, effective August 15, 1996; expedited correction at 20 Ill. Reg. 14939, effective August 15, 1996.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

## Section 811.101 Scope and Applicability

- a) The standards of this Part apply to all new landfills, except as

## POLLUTION CONTROL BOARD

## REQUEST FOR EXPEDITED CORRECTION

otherwise provided in 35 Ill. Adm. Code 816 and 817, and except those regulated pursuant to 35 Ill. Adm. Code 700 through 749. Subpart A contains general standards for new landfills. Subpart B contains additional standards for new landfills which dispose of new inert wastes. Subpart C contains additional standards for new landfills which dispose of chemical and putrescible wastes.

- b) All general provisions of 35 Ill. Adm. Code 810 apply to this Part.

- c) Standards for Municipal Solid Waste Landfills

- 1) The standards of this Part also apply to all new MSWLF units, as defined at 35 Ill. Adm. Code 810.103. The standards for the new MSWLF units include:

- A) The standards applicable to new landfills pursuant to subsection (a); and
- B) The standards adopted in this part that are identical-in-substance to the federal regulations promulgated by the U.S. Environmental Protection Agency pursuant Sections 404 and 4010 of the RCRA relating to MSWLF units. The standards are individually indicated as applicable to MSWLF units.
- 2) The Appendix Table B1-Appendix B provides a Section-by-Section correlation between the requirements of the federal MSWLF regulations at 40 CFR 258 (1992) and the requirements of this Part.
- 3) An owner or operator of a MSWLF unit shall also comply with any other applicable Federal rules, laws, regulations, or other requirements.

BOARD NOTE: Subsection (c)(3) is derived from 40 CFR 258.3 (1992).

(Source: Amended at 20 Ill. Reg. 12000, effective August 15, 1996)

## STATE BANKING BOARD OF ILLINOIS

## NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Hearings for Removal of Directors, Officers, Employees or Agents of a State Bank or Corporate Fiduciary
- 2) Code Citation: 38 Ill. Adm. Code 900
- 3) Section Numbers:  
900.10
- 4) Date Proposal published in Illinois Register: April 5, 1996, 20 Ill. Reg. 5326
- 5) Date Adoption published in Illinois Register: August 16, 1996, 20 Ill. Reg. 11359
- 6) Date Request for Expedited Correction published in Illinois Register: September 27, 1996, 20 Ill. Reg. 12801
- 7) Adoption Effective Date: August 1, 1996
- 8) Correction Effective Date: August 1, 1996
- 9) Reason for Approval of Expedited Correction: Correction of an ILCS citation and deletion of an extraneous period in Section 900.10.

The full text of the Corrected Rule begins on the following page:

## STATE BANKING BOARD OF ILLINOIS

## NOTICE OF EXPEDITED CORRECTION

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER VII: STATE BANKING BOARD OF ILLINOIS

## PART 900

HEARINGS FOR REMOVAL OF DIRECTORS, OFFICERS,  
EMPLOYEES OR AGENTS OF A STATE BANK OR CORPORATE FIDUCIARY

Section	Applicability
900.10	Definitions
900.20	Request for a Hearing
900.40	Hearing Officer
900.50	Notice of Hearing
900.60	Motions
900.70	Answer to the Order of Removal
900.80	Form of Pleadings
900.90	Service
900.100	Appearances
900.110	Consolidation of Hearing Proceedings
900.120	Intervention Hearing Officer
900.130	Discovery
900.140	Prehearing Conferences
900.150	Practice by telephone
900.160	Subpoenas
900.170	Discovery
900.180	Evidence Depositions
900.190	Conduct of a Hearing
900.200	Evidence
900.210	Record of Hearing Proceedings
900.220	Briefs
900.230	Hearing Officer's Findings of Fact and Conclusions of Law
900.240	Board's Determination
900.250	Construction of Rules

AUTHORITY: Implementing Section 48(7) of the Illinois Banking Act [205 ILCS 5/48(7)] and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6] and authorized by Section 80(j) of the Illinois Banking Act [205 ILCS 5/80(j)].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 15672, effective September 11, 1996, for a maximum of 150 days; chapter number and Part number corrected at 10 Ill. Reg. 20328; adopted at 11 Ill. Reg. 8905 effective April 24, 1997; amended at 12 Ill. Reg. 17074, effective October 11, 1998; amended at 20 Ill. Reg. 11894, effective August 1, 1996; expedited correction at 20 Ill. Reg. 12801, effective August 1, 1996.

Section 900.10 Applicability

This Part shall apply to hearings conducted under the jurisdiction of the State

## STATE BANKING BOARD OF ILLINOIS

## NOTICE OF EXPEDITED CORRECTION

Banking Board of Illinois pursuant to Section 48(7) 48(8) of the Illinois Banking Act [205 ILCS 5/48(7)(48)(8)] and Section 5-6 of the Corporate Fiduciary Act [205 ILCS 620/5-6].\*

(Source: Expedited correction at 20 Ill. Reg. **14944**, effective August 1, 1996.

## BOARD OF SAVINGS INSTITUTIONS

## NOTICE OF CODIFICATION CHANGE

- 1) Headings of Title: Financial Institutions
- 2) Code Citation: Title 38
- 3) Date of Index Department Review: October 30, 1996
- 4) Headings of Parts Affected:

The Commissioner of Banks and Trust Companies and the Office of the Commissioner of Savings and Residential Finance were merged to form the Office of Banks and Real Estate by Executive Order #1 (1996). That merger was further implemented and codified by Public Act 89-508. Public Act 89-508 also changed the name of the Savings and Loan Board (which is affiliated with the Office of Banks and Real Estate) to the Board of Savings Institutions.

In this codification change, Part and section numbers are not changing. Only changes relating to Chapter headings, some Subchapter headings, some Part headings, references to the agency, and other non-substantive changes reflecting the change of the name of the Board and the merger of the two Commissioner's Offices are being made at this time.

Part Numbers:

500

Headings:

Board of Savings Institutions

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
STRATTON OFFICE BUILDING  
ROOM C-1  
SPRINGFIELD, ILLINOIS  
NOVEMBER 19, 1996

**NOTICES:** Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

*It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**

Advis

1. Community Care Program (89 Ill. Admin Code 240)  
-First Notice Published: 20 Ill. Reg 6613 - 5/17/96  
-Expiration of Second Notice Period: 11/30/96

Agriculture

2. Livestock Auction Markets (8 Ill. Admin Code 40)  
-First Notice Published: 20 Ill. Reg 8730 - 7/12/96  
-Expiration of Second Notice Period: 11/24/96
3. Bovine Brucellosis (8 Ill. Admin Code 75)  
-First Notice Published: 20 Ill. Reg 8752 - 7/12/96  
-Expiration of Second Notice Period: 11/24/96

4. Swine Disease Control and Eradication Act (8 Ill. Admin Code 105)  
-First Notice Published: 20 Ill. Reg 8799 - 7/12/96  
-Expiration of Second Notice Period: 12/1/96

5. Animal Diagnostic Laboratory Act (8 Ill. Admin Code 110)

- First Notice Published: 20 Ill. Reg 8746 - 7/12/96  
-Expiration of Second Notice Period: 11/24/96

6. Illinois Pseudorabies Control Act (8 Ill. Admin Code 115)  
-First Notice Published: 20 Ill. Reg 8777 - 7/12/96  
-Expiration of Second Notice Period: 12/1/96

7. Equine Infectious Anemia Control (8 Ill. Admin Code 116)  
-First Notice Published: 20 Ill. Reg 8773 - 7/12/96  
-Expiration of Second Notice Period: 12/1/96

8. Livestock Dealer Licensing (68 Ill. Admin Code 610)  
-First Notice Published: 20 Ill. Reg 8795 - 7/12/96  
-Expiration of Second Notice Period: 11/24/96

Corrections

9. Rights and Privileges (20 Ill. Admin Code 525)  
-First Notice Published: 20 Ill. Reg 1719 - 2/2/96  
-Expiration of Second Notice Period: 12/14/96

Health Facilities Planning Board

10. Permit Application Fees (77 Ill. Admin Code 1100)  
-First Notice Published: 20 Ill. Reg 8948 - 7/12/96  
-Expiration of Second Notice Period: 12/22/96
11. Narrative and Planning Policies (77 Ill. Admin Code 1100)  
-First Notice Published: 20 Ill. Reg 9470 - 7/19/96  
-Expiration of Second Notice Period: 12/22/96

Natural Resources

12. Operation of Watercraft Carrying Passengers for Hire on Illinois Waters (17 Ill. Admin Code 2080)  
-First Notice Published: 20 Ill. Reg 11542 - 8/30/96  
-Expiration of Second Notice Period: 12/4/96

13. Designation of Restricted Waters in the State of Illinois (17 Ill. Admin Code 2030)  
-First Notice Published: 20 Ill. Reg 11537 - 8/30/96  
-Expiration of Second Notice Period: 12/4/96

Nuclear Safety

14. General Provisions (32 Ill. Admin Code 310)  
-First Notice Published: 20 Ill. Reg 12306 - 9/13/96  
-Expiration of Second Notice Period: 12/13/96

Public Aid

15. Aid to Families with Dependent Children (89 Ill. Admin Code 112)



- First Notice Published: 20 Ill Reg 11462 - 8/21/96  
-Expiration of Second Notice Period: 12/5/96
16. Related Program Provisions (89 Ill Adm Code 117)  
-First Notice Published: 20 Ill Reg 10303 - 8/2/96  
-Expiration of Second Notice Period: 12/5/96
17. Hospital Services (89 Ill Adm Code 148)  
-First Notice Published: 20 Ill Reg 8934 - 7/12/96  
-Expiration of Second Notice Period: 12/13/96
18. Hospital Reimbursement Changes (89 Ill Adm Code 152)  
-First Notice Published: 20 Ill Reg 8932 - 7/12/96  
-Expiration of Second Notice Period: 12/13/96
19. Demonstration Programs (89 Ill Adm Code 170)  
-First Notice Published: 20 Ill Reg 8977 - 4/26/96  
-Expiration of Second Notice Period: 12/12/96

Revenue

20. Retailers' Occupation Tax (86 Ill Adm Code 130)  
-First Notice Published: 20 Ill Reg 8961 - 7/12/96  
-Expiration of Second Notice Period: 11/20/96
21. Retailers' Occupation Tax (86 Ill Adm Code 130)  
-First Notice Published: 20 Ill Reg 8626 - 7/5/96  
-Expiration of Second Notice Period: 11/20/96
22. Service Occupation Tax (86 Ill Adm Code 140)  
-First Notice Published: 20 Ill Reg 8637 - 7/5/96  
-Expiration of Second Notice Period: 11/20/96
23. Use Tax (86 Ill Adm Code 150)  
-First Notice Published: 20 Ill Reg 8649 - 7/5/96  
-Expiration of Second Notice Period: 11/20/96
24. Service Use Tax (86 Ill Adm Code 160)  
-First Notice Published: 20 Ill Reg 8644 - 7/5/96  
-Expiration of Second Notice Period: 11/20/96

Secretary of State

25. Procedures and Standards (92 Ill Adm Code 1001)  
-First Notice Published: 20 Ill Reg 10552 - 8/9/96  
-Expiration of Second Notice Period: 12/15/96

EMERGENCY & PREEMPTORY RULEMAKINGSCentral Management Services

26. Pay Plan (80 Ill Adm Code 310) (Peremptory)

- Notice Published: 20 Ill Reg 13408 - 10/11/96

Elections

27. Registration of Voters (26 Ill Adm Code 216) (Emergency)  
-Notice Published: 20 Ill Reg 14247 - 11/1/96

Public Aid

28. Food Stamps (89 Ill Adm Code 121) (Emergency)  
-Notice Published: 20 Ill Reg 13381 - 10/11/96
29. Food Stamps (89 Ill Adm Code 121) (Emergency)  
-Notice Published: 20 Ill Reg 13688 - 10/18/96
30. Collections And Recoveries (89 Ill Adm Code 165) (Emergency)  
-Notice Published: 20 Ill Reg 13376 - 10/11/96
31. Child Support Enforcement (89 Ill Adm Code 160) (Emergency)  
-Notice Published: 20 Ill Reg 14002 - 10/25/96

EXEMPT RULEMAKINGS

32. Operation and Record Keeping (35 Ill Adm Code 607)  
-Proposed Date: 5/3/96  
-Adopted Date: 11/8/96
33. Primary Drinking Water Standards (35 Ill Adm Code 611)  
-Proposed Date: 5/3/96  
-Adopted Date: 11/8/96

EXPEDITED CORRECTIONSPollution Control Board

34. Alternative Standards For Coal Combustion Power Generating Facilities  
Waste Landfills (35 Ill Adm Code 816)

35. Standards For New Solid Waste Landfills (35 Ill Adm Code 811)

AGENCY RESPONSESPublic Aid

36. Related Program Provisions (89 Ill Adm Code 117)

37. Hospital Services (89 Ill Adm Code 148)

Public Health

## 38. AIDS Drug Reimbursement Program (77 Ill Adm Code 692)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 29, 1996 through November 4, 1996 and have been scheduled for review by the Committee at its November 19, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
12/12/96	Department of Public Aid, Demonstration Programs (89 Ill Adm Code 170)	4/26/96 20 Ill Reg 5977	11/19/96
12/13/96	Department of Nuclear Safety, General Provisions (32 Ill Adm Code 310)	9/13/96 20 Ill Reg 12306	11/19/96
12/13/96	Department of Public Aid, Hospital Services (89 Ill Adm Code 148)	7/12/96 20 Ill Reg 8934	11/19/96
12/13/96	Department of Public Aid, Hospital Reimbursement Changes (89 Ill Adm Code 152)	7/12/96 20 Ill Reg 8932	11/19/96
12/15/96	Secretary of State, Procedures and Standards (92 Ill Adm Code 1001)	8/9/96 20 Ill Reg 10542	11/19/96

Rules acted upon during the quarter of October 1 through December 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 30 III. Adm. Code 4401 published in Issue 40 will be listed as 30-4401-40. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4411 or [janaia@cap.state.il.us](mailto:janaia@cap.state.il.us) (Internet address).

<b>PROPOSED</b>	89-240-42	89-546-46
41-1100-40	89-270-46	
8-260-45	89-676-43	<b>EMERGENCY</b>
17-590-40	89-679-43	26-216-44
20-701-44	92-14	35-505-46
23-120-42	92-120-42	38-190-40
23-1501-45, 46		68-1240-46
23-3040-43	<b>ADOPTED</b>	89-121-41, 42
26-216-44	8-85-40	89-160-43
32-332-46	11-302-40	89-165-41
35-211-44	11-1403-40	
35-211-44	11-1403-40	
35-732-43	14-306-40	<b>PERMUT.</b>
35-732-43	17-520-45	80-310-41
50-855-45	23-3060-40	
50-4401-40	32-501-46	
50-6301-40	32-609-43	
56-2770-43	35-185-41	
56-2920-43	35-208-45	
59-112-42	35-218-45	
59-113-42	35-219-45	
59-115-42	35-607-45	
59-119-42	38-130-42	
62-240-43	41-100-40	
68-1240-46	50-2001-45	
77-824-41	59-113-42	
77-824-41	77-1100-46	
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89-141-41	89-104-46	
89-160-43	89-110-46	
89-165-41	89-112-46	
89-170-43	89-140-46	
89-230-46	89-153-46	
	89-356-45	



ILLINOIS REGISTER  
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF A CHANGE OF ADDRESS. ALL ORDERS MUST BE PAID IN ADVANCE BY CHECK, MONEY ORDER, VISA OR DISCOVER CARD. CHECKS AND MONEY ORDERS MUST BE PAYABLE TO THE "SECRETARY OF STATE".

MICROFICHE SETS OF THE ILLINOIS REGISTER @\$200.00 PER SET.  
\_\_\_\_1977-1978\_\_\_\_1979\_\_\_\_1980\_\_\_\_1981\_\_\_\_1982\_\_\_\_1983\_\_\_\_1984\_\_\_\_1985\_\_\_\_1986\_\_\_\_  
\_\_\_\_1987\_\_\_\_1988\_\_\_\_1989\_\_\_\_1990\_\_\_\_1991\_\_\_\_1992\_\_\_\_1993\_\_\_\_1994\_\_\_\_1995\_\_\_\_

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @\$1.00 EACH.  
\_\_\_\_1981\_\_\_\_1982\_\_\_\_1983\_\_\_\_1984\_\_\_\_1985\_\_\_\_1986\_\_\_\_1987\_\_\_\_1988\_\_\_\_1989\_\_\_\_

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @\$1.00 EACH.  
\_\_\_\_1984\_\_\_\_1985\_\_\_\_1986\_\_\_\_1987\_\_\_\_1988\_\_\_\_1989\_\_\_\_

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\_\_\_\_1990\_\_\_\_1991\_\_\_\_1992\_\_\_\_1993\_\_\_\_1994\_\_\_\_1995\_\_\_\_

BACK ISSUES OF THE ILLINOIS REGISTER (CURRENT YEAR ONLY) @\$10.00 EACH.

\_\_\_\_(VOLUME #)\_\_\_\_

\_\_\_\_(ISSUE #)\_\_\_\_

\_\_\_\_(ISSUE DATE)\_\_\_\_

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @\$290.00 (52 ISSUES)  
\_\_\_\_NEW\_\_\_\_RENEWAL

ANNUAL SUBSCRIPTION AND SUPPLEMENT TO THE ILLINOIS ADMINISTRATIVE CODE; PUBLISHED QUARTERLY @\$290.00  
\_\_\_\_1996 CODE & 2 SUPPLEMENTS\_\_\_\_QUANTITY

TOTAL AMOUNT OF ORDER: \$\_\_\_\_\_  
\_\_\_\_CHECK\_\_\_\_VISA\_\_\_\_DISCOVER\_\_\_\_CARD #:\_\_\_\_\_

EXPIRATION DATE:\_\_\_\_SIGNATURE:\_\_\_\_\_  
(IF CHANGE OF ADDRESS, PLEASE LIST BOTH THE OLD AND NEW ADDRESS:\_\_\_\_\_

\_\_\_\_\_  
(NAME, PLEASE TYPE OR PRINT)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY, STATE, ZIP CODE AND TELEPHONE #)

MAIL TO:

GEORGE H. RYAN  
SECRETARY OF STATE  
INDEX DEPARTMENT  
111 E. MONROE  
SPRINGFIELD, IL 62756



